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REPORTS

AND

DEPOSITIONS

IN THE

CONTESTED ELECTION

OF THE

SECOND ASSEMBLY DISTRICT OF BURLINGTON COUNTY.

PRINTED BY ORDER OF THE LEGISLATURE.

CAMDEN, N. J.:

MORRIS R. HAMILTON, PRINTER.

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REPORT

ON THE

PROGRESS OF THE

WORK OF THE

COMMISSIONERS

IN THE

## MAJORITY REPORT.

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The undersigned, a majority of the committee to whom was referred the petition of Mr. Charles C. Lathrop, claiming the seat of Jarrett Stokes, Esq., the returned member from the Second Assembly District, in the county of Burlington, and praying to be admitted to such seat, respectfully report:

That at the election held in this State, on the third day of November last, for members of the General Assembly, and other State and County officers, Jarrett Stokes and Charles C. Lathrop, Esqs., were the opposing candidates in the Second Assembly District, in the county of Burlington. This district is composed of the townships of Burlington, Beverly, Cinnaminson, Springfield and Willingborough.

The election officers in each of those townships made and certified statements of the result of the election to the Board of County Canvassers, who, at the proper time and in the prescribed form, made and certified the resulting the entire county to the Secretary of State at Trenton. By this statement, it appears that the following vote was cast:

	<i>Stokes.</i>	<i>Lathrop.</i>
Burlington township, - - - -	377	546
Beverly township, - - - -	146	155
Cinnaminson township, - - - -	291	136
Springfield township, - - - -	200	172
Willingborough township, - - - -	59	60
	<hr/> 1,073	<hr/> 1,069

Making in all for Mr. Stokes 1,073, and for Mr. Lathrop 1,069 votes, showing a majority of *four* votes for Mr. Stokes, who, at the opening of the session, produced his credentials, was duly qualified and admitted to his seat.

Within the thirty days prescribed by law next after this election, Mr. Lathrop gave to Mr. Stokes a notice, in writing, that he intended to contest his right to his seat, setting forth the grounds on which it would be contested.

The following is a copy of the notice thus given:

“DELANCO, November 30, 1863.

“FRIEND JARRETT STOKES:—Having become satisfied that I was legally elected to the Assembly from this district, I hereby give you due and official notice that I shall contest your claim to

the seat in the Assembly, under the certificate given you, for the following reasons, viz :

"*First*—The proper, correct and official vote (as announced at the close of the polls) in Burlington township gave me a majority of one hundred and seventy-five, and should so have been returned by the judges of election ; but, instead thereof, they made their returns so as to give me but one hundred and sixty-nine majority. I have reason to believe that the ballot box was improperly dealt with, and the result fraudulently produced.

"*Second*—On examination of the box, it is found that the returns of the judges do not agree with the state of the votes as polled, or as found now in the box, as will be fully shown before the Assembly.

"*Third*—On examination it is found that a vote polled for *Levi French*, in the same box, was counted for you ; and the following illegal votes were polled for you at the same poll, viz : Silas A. Coleman, Morris J. Leeds and Isaac T. Price, who were not entitled to vote.

"*Fourth*—The vote in Beverly township, as counted out and officially announced at the close of the polls, gave me eleven majority ; but the return judges gave me, improperly, but nine ; while, on a re-examination of the tally list, it is shown that I was entitled to a majority of thirteen.

"*Fifth*—The following illegal votes were voted for you at the same poll. viz : a Mr. Hutchinson and a Mr. Kepner voted, who were not entitled to a vote.

"All of which is respectfully submitted.

"I am, very truly yours,

"CHARLES C. LATHROP."

Subsequently, on an application by Mr. Lathrop to John Rodgers, Esq., a Master in Chancery, residing at the city of Burlington, he fixed a time and place for taking depositions under the above notice, on the part of the contestant, pursuant to which, at the time of the appointment of your committee, they were being taken before said Master. The taking of these depositions was continued, at intervals, up to the fifteenth day of January last, upon the close of which, by arrangement between the parties, and on notice by Mr. Stokes to Mr. Lathrop, setting forth the grounds on which he would defend his right, the same Master appointed a time and place for the taking of depositions before him on the part of Mr. Stokes. The following is a copy of the notice, so far as relates to the grounds of defence :

"And you will please further take notice that, besides disproving the ground or grounds on which you have given said Jarrett Stokes notice that you will contest his right to said seat, the said witnesses, or some of them, will also be offered to prove that you are not constitutionally eligible to the office or seat of a member



of the General Assembly, because neither at the time of said election, nor at any time since, have you been a citizen and inhabitant of the State of New Jersey for two years, and of said county of Burlington for one year; and also to prove that Nathan Lippincott, George Poole, Thomas Wiley, Isaac Tucker, John Fenimore, William Measey, William Cooper, James Murphy, John Boyle, John Colwell and Ira Starkey voted for you at said election, and were not legally qualified to vote thereat; and also to prove that a majority of the legal votes cast at said election for a member of said General Assembly were cast for said Jarrett Stokes, and that he was therefore duly elected, and entitled to a certificate of his election."

The depositions under this notice were not concluded until the nineteenth day of February last; and, upon their being closed, Mr. Lathrop again gave notice of the taking of *rebutting* testimony. This was objected to, as not authorized by the act (and, strictly speaking, it probably was not); but as Mr. Stokes subsequently took part in it, and afterwards took testimony on his part in answer to this rebutting testimony, which was not closed until the seventh instant, your committee in their investigations have considered the whole testimony thus taken, which they submit with this report.

It will be perceived, by reference to the notice of Mr. Lathrop, that he bases his claims upon two grounds: *First*, That he received a majority of all the votes which were cast for members of Assembly in the Second District, and was deprived of a return in his favor by *fraud* in the election officers in the townships of Burlington and Beverly; and, *secondly*, That there were illegal votes cast in those townships for Mr. Stokes sufficient to overcome his official majority, even if those returns were honestly and accurately made. He claims five illegal votes. His notice confines both the fraud and the illegal voting to those two townships, and therefore impliedly admits the correctness of the returns in all the other townships.

On the other hand, it will be perceived, by reference to the notice of Mr. Stokes, that he defends his right to the seat in question: *First*, On the ground that Mr. Lathrop is constitutionally ineligible to a seat in the General Assembly, and that it is therefore wholly unimportant how many votes were cast for him; and, *secondly*, because he (Mr. Stokes) received a clear majority of all the votes; and, in turn, he specifies eleven illegal votes, which he claims to have been cast for Mr. Lathrop.

Under these notices the evidence of fraud and illegal voting has been confined, necessarily, to the two townships of Burlington and Beverly. The returns in the other townships will therefore be considered as correct.

I. In considering the evidence in this case, the undersigned

take leave, in the first place, to direct the attention of the House to the question of eligibility; for if the contestant be ineligible, there is an end of the matter. All the votes cast for him must go for nothing. So far as he is concerned, all the ballots on which his name appears had as well be blank pieces of paper; and any number of votes for Mr. Stokes, however small, would entitle him to his seat. Two things are absolutely necessary to constitute a legal vote—legality in the voter, and qualification in the person voted for. This is clearly so on principle, and expressly so declared by our statute on elections, which enacts that the person or persons “*who shall by law be qualified for the office or offices at such election, and for whom the greatest number of votes shall have been given therein for any office or offices, shall be deemed and taken to be elected.*” [*Nixon’s Digest*, 242, Sec. 53.)

By our State Constitution, it is provided that “no person shall be a member of the General Assembly who shall not have been a citizen and inhabitant of the State *for two years*, and of the county for which he shall be chosen one year next before his election.” (*Art. IV., Sec. 1, pl. 2.*)

The objection urged against Mr. Lathrop is, that at the time of this election, he had not been, nor has he yet been, “a citizen and inhabitant of the State for two years;” that he first came from the city of Philadelphia to Delanco, in this State, in the month of April, 1862; and, consequently, on the third day of November last, when the election occurred, he had been an inhabitant or citizen of this State only about *nineteen months*. If this be true, nothing is clearer than that he was and is ineligible.

Although it does not appear from the evidence taken of what State or country Mr. Lathrop is a native, or whether he had resided or been living anterior to his being found in Philadelphia, in September, 1861; yet it may be assumed that he was then, and probably had been for a few years preceding, a citizen of Pennsylvania and a resident of that city. If this was so (which, outside of the evidence, is stated to be the fact), then a change of residence from Philadelphia to Delanco would constitute him “a citizen and inhabitant of this State” within the meaning of the constitution, so that the inquiry upon the point now being considered is reduced to the single question: *When did he actually change his residence from Philadelphia to Delanco?* Mr. Lathrop himself better than any other person, could answer this question; at least, he could best state the *facts*, and leave the legal inference of citizenship and residence to be drawn by others. But, although at the commencement of his testimony he was met with the objection that he had no right even to contest the seat of Mr. Stokes, because he was incompetent to hold the office—and again the same objection was urged in the notice to him of taking testimony, on the part of Mr. Stokes—and although he was perfectly

competent to be a witness, and attended the examinations, and heard the evidence against him on this point, yet he declined to put himself on the stand. The truth of the testimony in regard to it must, therefore, be considered as admitted by him.

He does not seem to have been known at Delanco until the autumn of 1861, when he first appeared there as an entire stranger from Philadelphia, and purchased, in the name of his wife, a house and lot of a Mrs. Caruthers, with a small amount of her furniture, probably to the value of from one hundred to a hundred and fifty dollars. The house, with this furniture in it, was then locked up, and so continued vacant until the first week in April, 1862, when he and his family, bringing their furniture with them from Philadelphia, moved into it, and have continued to reside there ever since. Prior to this there is no evidence that either he or any member of his family ever slept a night or ate a meal in this State.

Paul Jones, a justice of the peace and a highly respectable citizen of Delanco, testifies in substance that he had known Mr. Lathrop since he moved to that place from Philadelphia, as he understood, on the seventh or eighth of April, 1862, into a house which he had purchased of Mrs. Caruthers, in September, 1861, and which had been vacant from the time of the purchase up to that period; and his son, Azahel Jones, testifies substantially to the same thing. Charles Stokes, one of the most distinguished citizens of the State, well known in her public councils, and during a long and useful life resident near Delanco, says that the first time he ever saw Mr. Lathrop to know him, was at Mount Holly, on the 6th of November last, the day the Board of County Canvassers met there, when, after being introduced by Mr. Woolman, one of the election officers, he entered into a somewhat general conversation, in the course of which he inquired of Mr. Lathrop touching the report in circulation that he had not been a resident of the State for two years. Mr. L. intimated that there might be some doubt on that subject. Mr. Stokes then asked him plainly, when he moved with his family into the State? He replied, in the spring of 1862.

Mr. Caleb F. Hendrickson says that in a conversation with Mr. Lathrop a few days after the last election, he asked him when he moved into the State? He answered, in April, 1862.

There was no attempt, on the part of the contestant, to controvert the testimony of these four witnesses; but by his cross-examination of them he seemed desirous to prove that he purchased the property of Mrs. Caruthers, at Delanco, in the fall of 1861, with an *intention* of subsequently moving there; as though he designed to claim that such *intention* would constitute him a citizen or inhabitant of this State; and for this purpose he subsequently called as a rebutting witness, Mr. *Stephen Parsons*, who testified that through him, in part, he purchased the property of Mrs. Ca-



ruthers in September, 1861; declaring at the time that he intended to move there with his family as soon as he could dispose of his property in Philadelphia; that failing to make a disposition of it until the weather became very inclement, he remained with his family in Philadelphia until about the first of April, 1862, when he moved up, bringing their furniture; that between the times of his purchase and moving, the house remained unoccupied, the witness having the key and custody of it as the agent of Mr. Lathrop, thereby establishing the fact, which had been testified to on the part of Mr. Stokes, that although he purchased the property in September, 1861, yet he did not change his residence or move into the State until April, 1862.

The purchase or ownership of real or personal property in this State, or both, by a citizen of another State, with intention subsequently to move upon the property purchased, however truthfully entertained or publicly expressed, will not constitute a change of residence. Until that intention shall be followed up by actual removal the old residence continues. The old domicil remains, whatever may be the intention, until the new one is actually acquired. This principle is too well settled to require argument or admit of doubt. Applying it to the contestant, it is perfectly clear that he did not change his residence from Philadelphia to Delanco until April, 1862; and, consequently, did not become a citizen or inhabitant of this State until that time.

The undersigned, therefore, entertain no doubt that Mr. Lathrop, by the clear provision of our constitution, is ineligible to the seat in question, and that Mr. Stokes is entitled to it.

II. But Mr. Stokes would not willingly retain his seat by such a title, however valid. He claims it by the same tenure that every other member of this honorable body is proud to hold his—the *voice of a majority of the legal voters of his district, legally and constitutionally expressed*. Without this he would not be here. This is the true and only Democratic invitation to office, giving strength and dignity to place. Conscious of having been thus elected, he cheerfully opens the ballot boxes and courts an examination of their contents, and challenges his opponent to make good the assault not only on himself but the respectable election officers, whom he has also assailed with charges of fraud and crime, or else stand convicted of calumny before an outraged community.

The next question to be determined, then, is, *which of these parties received a majority of the legal votes cast in their district?*

It is proper to premise on this point that Mr. Stokes is the sitting member, holding the returns of the election officers in his favor. These must be presumed correct; and the burden of proof lies on the party who claims them not to be. Fraud and mistake are never presumed—much less by sworn officers in the discharge of their official duties. Hence it is incumbent on Mr. Lathrop,

who assails these officers, to make good his charges by proof. As above stated, they are confined to the two townships of Burlington and Beverly.

The returns from the other townships not being questioned, will be considered accurate. In examining the question which of the parties received a majority of the legal votes, the undersigned beg leave, *first*, to direct the attention of the House to the *mistakes* or illegal voting claimed by them, respectively; and then to the charges of *fraud* made by Mr. Lathrop.

1. First, then, in regard to the mistakes. If the returns be an accurate statement of the votes, as apparent on the face of the ballots, Mr. Stokes, as above shown, has a majority of *four* votes. Mr. Lathrop claims that five of the votes cast for Mr. Stokes were illegal. But Mr. Stokes denies this, and, in turn, claims that eleven illegal votes were cast for Mr. Lathrop.

Before examining the evidence relating to the counter claims of illegal voting, it is necessary to determine whether the returns are a correct statement of the ballots, so far as these parties are concerned.

It appears in evidence that about two weeks after the election, the *Union League* at the city of Burlington, appointed a committee of three to wait on the election officers of that township and count the votes in the box. These officers yielded to their request, and at a time and place agreed on, the committee, in the presence of the officers, carefully counted the votes as they then appeared on the face of the ballots. The result showed a mistake of *one* vote in favor of each party; that Mr. Lathrop had received five hundred and forty-five instead of five hundred and forty-six; and that Mr. Stokes had received three hundred and seventy-six instead of three hundred and seventy-seven votes, as stated in the returns. These errors balanced each other, and left Mr. Lathrop's majority in that township one hundred and sixty-nine, the same as in the returns. The way by which these counteracting errors had occurred is obvious, and was explained by all the witnesses who spoke of them in substantially the same manner. The officers had counted the *solid tickets* by themselves, laying aside the *split tickets* in a hat, to be counted after the solids. Among these solids was found an unscratched Democratic ticket of the adjoining Assembly District, having on it the name of *Levi French* for Assembly, who was the Democratic candidate in that district. This is the French vote, mentioned by Mr. Lathrop in his notice, and had probably been voted by mistake. In counting the *solids*, by simply reading the headings of the tickets, this name had escaped observation and was counted for Mr. Stokes, thus giving him one vote more than he was entitled to. The error in favor of Mr. Lathrop appears to have occurred by one of the solid Republican tickets, after having been counted as a *solid* instead of being strung,

thrown into the hat among the split tickets and afterwards counted again with them, thus counting the same ticket twice, and thereby giving to Mr. Lathrop one vote more than he had received.

It also appeared in evidence, that a few weeks after the election a Republican committee (self-constituted) waited upon the clerk of Beverly township, who had the ballot box and other election papers, in his custody; and by his permission, in his presence, counted over the ballots as they then were. They found the votes for the Assembly candidates to correspond exactly with the returns from that township.

Again, upon the taking of depositions before Master Rogers on the part of Mr. Stokes, the ballot boxes of both these townships were produced and opened and the votes again counted by the Master in the presence of the parties, their counsel and witnesses, and found to agree with the counts which had been made by the Republican committees. We have, then, three separate and independent counts—first, by the election officers, then by the Republican committee, and lastly by the Master—all coming to precisely the same result, and all agreeing, except in the balancing errors of one vote on each side, made by the officers, as above explained. It may, therefore, be considered beyond dispute, that by the ballots, as they now are, Mr. Stokes has a majority of *four votes*.

The five persons claimed by Mr. Lathrop to have voted illegally for Mr. Stokes are Silas A. Coleman, J. Morris Leeds and Isaac T. Price, of Burlington, and Charles Hutchinson and Alfred Kepner, of Beverly. No evidence whatever was taken to impeach Coleman. Of the remaining four, Leeds, Price and Hutchinson undoubtedly voted for Stokes, so that the only question as to them is: Were they qualified?

Mr. Leeds is a young man about twenty-three years old, was born in Burlington, and had lived there with his parents until some two or three years before the election, he went to Penn's Grove, Salem county, to teach school, and changed his residence to that county. Godfrey H. Hays, a witnesses produced by Mr. Lathrop, testified that he knew Leeds, and that he had resided in Salem county for about three years. Mr. Leeds was himself called as a witness on the part of Mr. Stokes. He acknowledged to have changed his residence from Burlington to Salem county; but testified that in March, 1863, he gave up his school there and returned, with all his effects, to Burlington, as his permanent and fixed home, and had resided there with his widowed mother ever since; that after his return he was taxed *personally* as a resident of Burlington, and paid his tax; and although he had again engaged in teaching at Penn's Grove, yet it was but a temporary engagement, without intention of residing there. He stated his reasons for returning to Burlington with so much candor and intelligence as to leave no doubt of their truth, or of his *bona fide* residence



having been there for more than five months next before the election, and consequently of his right to vote.

Recompense R. Ross and Charles P. Fort, witnesses called by Mr. Lathrop, testified generally that although Isaac T. Price had been a resident of Burlington, yet that he had moved to Trenton, and resided there at the time of the election. Mr. Price himself, on being called by Mr. Stokes, testified that about the first of October last he went to Trenton to work for a Mr. English, on trial, and not knowing how long he would continue, he packed away his furniture in his house at Burlington, and his wife went on a visit to her father's until he should decide whether to remain at Trenton; that *after* the election he made a permanent arrangement with Mr. English, rented a house in Trenton, and changed his residence to that place. His testimony clearly shows him to have been a legal voter.

Mr. Lathrop proved by Richard H. Morrell that Charles Hutchinson had formerly resided at Beverly, but that about two years before the election he rented his house to an intimate friend and moved to Philadelphia, and resided there until March or April last, when he came back to Beverly, and consequently had not resided in the State one year *next* before the election. In answer to this, Mr. Hutchinson testified that Beverly had been his place of residence for the last preceding seven years; that he was a mechanic, and in December, 1861, made an engagement with a Mr. Distin to mount swords for him, and that to fulfil this engagement was the only object in going to Philadelphia, intending to return as soon as completed; that as it would require his close personal attention, his family, to avoid the inconveniences of a separation, concluded to go to Philadelphia also, and remain until his engagement should be fulfilled; that they did so, for that temporary purpose only; that, rather than board with his family, he took a house in Philadelphia, and moved a portion of his furniture there, leaving the residue in his house at Beverly to be ready on his return, and made an arrangement with a friend to occupy his house in his absence; that he paid his poll tax in Beverly in 1862, and that as soon as he conveniently could after completing his engagement, he returned with his family and furniture, to Beverly, in January, 1863. His testimony leaves no doubt of his right to vote.

This disposes of all the illegal voting claimed by Mr. Lathrop, except Alfred Kepner, who was, no doubt, an illegal voter—the doubt as to him being for whom he voted. Upon this point Hezekiah Johnson, a Democrat, called by Mr. Lathrop, testified that Kepner voted a Democratic ticket; that he knew this by seeing him vote a ticket *rolled up, with the Democratic heading turned out*. This exposing a ticket to a Democrat, “rolled up, and the heading turned out,” is in itself suspicious—more like an artifice than

straightforward voting. No one states that Kepner belonged to the Democratic party. On the contrary, Mr. Charles R. Fenimore, the clerk of Beverly township, testified that he knew "nothing of Kepner's politics, except that he told him (Fenimore) that he voted for *Abraham Lincoln*, and would do so again, if he had an opportunity." He also told Henry V. Fenimore, at the Delanco Station, after the election, that Mr. Lathrop gave "him money to come and vote;" from which, witness supposed, he voted a Republican ticket. Mr. Isaac Newton testifies that after the election it "was noised around" that "Mr. Lathrop had given Kepner two dollars and a half to vote for him." He subsequently asked Mr. Lathrop about this money, and he (Lathrop) said, that when he was addressing a political meeting at Progress, Kepner came "up on the stand," and asked for something "to treat the boys," and he gave him "fifty cents to get rid of him." The *speaker's stand*, at a Republican meeting, is not a very likely place for a Democrat; nor is getting money of the Republican speakers, "to treat the boys," a likely kind of business for a Democrat to engage in!

The undersigned are of opinion that the decided weight of evidence is, that Kepner voted for Mr. Lathrop; and his vote, being admitted to be illegal, should, therefore, be deducted from Lathrop's votes.

Having thus disposed of the illegal voting claimed by Mr. Lathrop, the undersigned beg leave, next, to call attention to that claimed by Mr. Stokes. The names of the eleven persons specified by him, as illegal voters for Mr. Lathrop, are John Boyle, John Fenimore, John Caldwell, George S. Poole, Thomas Wiley, William Measy, William Cooper, Thomas Murphy, Ira Starkey, Isaac T. Tucker, and Nathan Lippincott. No evidence was taken to impeach the votes of any of them, except Boyle, Fenimore, Caldwell, Poole and Wiley; and the only witness called, as to Wiley, was his mother, Mrs. Mary Wiley, who proved, clearly, that he did not change his residence from Burlington to New Hope (if at all) until after the election. He was, therefore, a legal voter.

John Boyle was proved, by his own oath, and by John R. Heisler, to whom he was and is an indentured apprentice, to be a minor.

John Fenimore was proved by his grand-daughter, Miss Susannah Asay, with whom he lives, and by Thomas M. Richardson, his next-door neighbor, to have resided in Ohio for about four years preceding the twenty-seventh day of March last, when he came to Burlington, where he has since resided. Not having been a resident of the State for one year next before the election, he was not entitled to vote.

John Caldwell is proved by Henry Herzog to have been residing, or rather stopping, for some — years past, part of the time in Philadelphia and part of the time in Beverly; and it is difficult to determine, from the evidence, which is or has been his proper place of residence. By his own admissions, however, he claimed and exercised the right of voting in Philadelphia last October. He must, then, have claimed himself to be a resident of Pennsylvania; and, by his own act, should be estopped from voting, *one month* after, in New Jersey, whose Constitution requires a residence of one year next before the election. His vote should be considered illegal.



As to George S. Poole, the evidence shows that his wife and four children do now, and have for several years, resided in Philadelphia, and that he also had resided there with them until about two years ago, when he separated from his wife, and has since boarded in Burlington, claiming it as his home, occasionally visiting his family in Philadelphia. The evidence is in favor of Burlington as his residence ; his vote should be held good.

In the opinion of the undersigned, the evidence proves but four illegal votes—Kepner, Boyle, Fenimore and Caldwell, all of which were cast for Mr. Lathrop. These, deducted from his vote, increase Mr. Stokes' majority to *eight*, instead of four, as returned.

II. Having ascertained the correctness of the returns, according to the ballots in the box, and the extent and complexion of the illegal voting, it remains to consider the fraud charged by the contestant. This is of the gravest character. Its gravity should have admonished him of the necessity of caution. Stripped of verbiage, it amounts to this: that the whole body of election officers, in both the townships of Burlington and Beverly, after having counted, ascertained and announced the true result of the elections in those townships, fraudulently and stealthily opened their respective ballot boxes, and altered tickets sufficient to change that result ; and then wilfully made false returns, corresponding with such alterations. When it is considered that each of these officers, eight in number, immediately before opening the polls, was solemnly sworn "faithfully and impartially to execute the duties" of his office, and that the principal of those duties—involving all the rest—was to certify and sign a true and correct statement of the result ; and when it is also considered that these eight men are the heads of families, and that they have hitherto sustained irreproachable characters, and enjoyed the confidence of the community, this wholesale charge of crime, by a comparative stranger, assumes its true proportions.

In order to comprehend the testimony, it is necessary to state in advance that the ballots in the boxes are nearly all printed, and headed either "*Union Ticket*" or "*Democratic Ticket*," and that the judges, in counting them, instead of literally following the directions of the election law, by reading all the names on each as taken from the box, and then numbering and stringing them continuously on the same string, divided them into what they called "solid Union," "solid Democratic," and "splits." The *solids*, as taken from the box, were read by simply reading the headings and then numbered and strung ; the person keeping tally making a single stroke for each ballot. But the *splits* were thrown aside promiscuously into a hat, and read, numbered and strung, after the *solids* had all been counted. The mode of counting in each of these townships (and which is said to be usual throughout Burlington county) was the same, except that in Burlington township, the Union and Democratic tickets were separately numbered and strung on *different* strings ; but in Beverly township they were continuously numbered and strung on the same string. It will readily be perceived that this mode of counting (which the undersigned conceive to be a de-

parture from the plain letter of the law) would very likely, if not necessarily, lead to mistakes. The eye will not at a single glance detect, accurately, all the names on the ticket, especially in the hurry and anxiety of counting in crowded, excited, noisy and badly lighted rooms, usual on such occasions.

Among the tickets in the ballot box of Burlington township, are now found on the Republican string three ballots, each headed "Union Ticket," similar, in all respects, with the other tickets of that denomination, except that over the name of *Charles C. Lathrop* that of *Jarrett Stokes*, printed on a narrow slip of paper, alike in color with the other part of the ticket, is neatly pasted by a gum or glutinous substance, such as used on common stamps; and upon the same string are two other tickets with the name of Mr. Lathrop erased and that of Mr. Stokes substituted, in the handwriting of *Michael W. Keegan*. These are the five tickets claimed to have been altered between the times of first counting, on the night of the election and a subsequent recount, in the forenoon of the next day. This is the particular fraud charged against the officers in that township; to sustain which they implicate Mr. Keegan, in whose writing are the alterations on the two split tickets. All parties admit that in the first counting the three tickets having Stokes' name pasted on them were counted as Union solids, for Mr. Lathrop. The tally list shows this. The other two are claimed by the contestant not to have been counted, at first, for either—his name, as claimed, being then simply erased without that of Mr. Stokes being substituted. But Mr. Stokes denies this, and the tally list shows they were—thereby sustaining the denial. It is also admitted and proved by both parties, that at the close of the count on the night of the election, Mr. Lippincott, the judge, openly read from the Republican tally list the number of votes according to that count, cast for the Republican candidates, stating the number for Mr. Lathrop to be five hundred and forty-seven; and that Mr. Batten, the clerk, then read from the Democratic tally list the votes for the Democratic candidates—but whether he stated the number for Mr. Stokes to be three hundred and seventy-two or three hundred and seventy-four, is somewhat uncertain. The former would make Mr. Lathrop's majority in that township one hundred and seventy-five—the latter, one hundred and seventy-three. And it is also proved and admitted that there was a public recount of these votes at the City Hall, in Burlington, in the forenoon of the next day; in the conducting of which two Republicans, at the invitation of the officers, assisted, arriving at the result heretofore stated, of five hundred and forty-six for Mr. Lathrop and three hundred and seventy-seven for Mr. Stokes. And it is further admitted and proved, that in making this recount the Democratic ticket, with *French's* name on it, was not discovered at all, although the tickets were then carefully gone over two or three times; and it is proved and not denied, that one of the three *pasted* tickets was at first passed over without discovering Mr. Stokes' name on it, and not detected until a review, after detecting his name on the second of those tickets, thereby proving not only the possibility but the probability of

overlooking those names in open daylight, under the jealous eyes of political partisans.

The officers of the election in Burlington township were Benjamin F. Lippincott, Hamilton McDowell and William Larzaleer, judges, and James R. Batten, clerk. There is no direct proof whatever of the fraud charged; and the facts claimed, from which it is sought to be inferred, may be stated as follows:

1. That the votes announced at the close of the count on the night of the election, gave Mr. Lathrop one hundred and seventy-five majority.

2. That the judge of the election (Lippincott) stopping at Belden's hotel on his way home with the ballot box, at about a quarter past ten o'clock, deposited it with Mr. Joseph P. Deacon, at the telegraph office adjoining, to keep for the night; and afterwards, at about a quarter past eleven o'clock, took it away.

3. That between the times of thus leaving and taking the box, the township majorities, as reported at Burlington, gave Mr. Lathrop a majority of *seven* in the district.

4. That the box, after an earnest conversation of two or three minutes on the pavement near the telegraph office, between the judge and Batten, was taken by them, with a crowd of persons following, down Main street, on the *westerly* side, and afterwards across to Kinsey's hotel, on the *easterly* side, by the river.

5. That Jarrett Stokes and the other election officers, with Keegan and others, afterwards assembled at Kinsey's, and remained up to a late hour.

6. That, after being at Kinsey's an hour or more, McDowell and Larzaleer, two of the judges, left together; and while stopping and conversing a few moments on the pavement in front of the hotel, McDowell said to Larzaleer, "Mike can fix that all right; he can do it better than we can."

7. That early the next morning, about *eight* o'clock, Samuel K. Schuyler and others, Democrats, were at Higbee's hotel, betting two to one on Stokes.

8. That at about half-past nine of the morning after the election all the judges and clerk, with others, convened at the Council chamber of the City Hall at Burlington (without adjournment for that purpose, and contrary to law and usage), recounted the votes, diminishing the result announced on the previous evening from a majority of one hundred and seventy-five to one hundred and sixty-nine for Mr. Lathrop.

9. That the three tickets which were then found with Mr. Stokes' name pasted over Mr. Lathrop's had been counted the night before among the solid tickets for Mr. Lathrop, and that the name of Mr. Stokes on the two tickets found among the splits, with Mr. Lathrop's name erased, was in the handwriting of Mr. Keegan; and,

10. That on one corner of the tally list were pencil figures (also in the handwriting of Mr. Keegan), showing a calculation according to the reported township majorities of the preceding night.

Without stopping to inquire whether any inference of fraud, such as



charged, can be drawn from these supposed facts, or rather without stopping to prove that no such deduction can rationally be made from them, the accusation will be more readily disposed of by showing that either no such facts are proved to exist, or else are satisfactorily accounted for. Before crime can be presumed from circumstances, the circumstances themselves must be clearly established. To prove a larceny from the possession of recently stolen goods, the fact that the accused had them in his possession, and was unable satisfactorily to account for them, must be clearly shown.

1. First, then, it is claimed, on the part of contestant, that the vote announced on election night gave Mr. Lathrop one hundred and seventy-five majority in Burlington township—that is, that Mr. Lippincott read from the Republican tally list that Mr. Lathrop had received five hundred and forty-seven votes, and that Mr. Batten read from the Democratic tally list that Mr. Stokes had received three hundred and seventy-two votes, making the former's majority one hundred and seventy-five. No one pretends that the *majority* was announced; but only that the vote read for each made that majority.

On the part of Mr. Stokes, it is claimed that the vote announced for him was three hundred and seventy-four, making Mr. Lathrop's majority one hundred and seventy-three. The difference is *two* votes, and can only be important in determining whether the two split tickets having Mr. Stokes' name now written on them had it then, and were counted for him on the night of the election.

Mr. Burling, a witness for contestant, says he kept a tally of the count on election night, and that his tally, which he had not altered since, agreed with the clerk's. He then says; "I remember *referring to my memorandum*" (his tally list in pencil), "that Jarrett Stokes had received three hundred and seventy-two votes." He pretended to no recollection outside of his tally list, stating, it is true, that he had not altered it. But he is proved by Mr. McDowell to have told him that he had "revised" his tally list; that "he got tangled a little on the splits, and had revised it." Besides this flat contradiction, Mr. Burling is shown, by his cross-examination and by other witnesses, to have been so frequently at fault that but little reliance can be placed on his memory. Mr. William E. Page, another witness of contestant, says he was present when the vote was announced, and made a memorandum, and as he then took it down Mr. Batten read three hundred and seventy-two for Mr. Stokes. Mr. Jonathan M. Roberts, another of contestant's witnesses, not being willing to trust his memory to state the vote announced, said, in answer to a leading question propounded to him, that *his recollection corresponded with the statement made the day before by Mr. Burling*. This is the substance of contestant's evidence on this point, except that two or three of his other witnesses testified that Lathrop's reported majority on election night was one hundred and seventy-five votes.

In opposition to this, Mr. Batten, the clerk, who kept the official tally list, and who read the votes for Mr. Stokes and other Democratic candi-

dates, says that the tallies on it for Mr. Stokes are now precisely as made on election night ; that they show that the *two tickets* having Mr. Stokes' name substituted for Mr. Lathrop's erased were both then counted ; that those tallies make three hundred and seventy-four votes for Mr. Stokes, and were so carried out and read by him on election night. More direct and positive testimony than this, based on an official paper made at the time by a sworn officer, could not be produced, and should settle the question. In this he is corroborated by the ballots in the box, by all the judges of the election, and by at least a half dozen other witnesses, who testify that the majority in favor of Mr. Lathrop, as reported that night, varied from one hundred and sixty-eight to one hundred and seventy-five. The weight of the evidence in favor of those two tickets having been counted and tallied for Mr. Stokes that night is so great as to leave no rational doubt on the subject.

2. It can be of little importance whether the ballot box was left at the telegraph office for the night, or only for the time that the judge who put it there should remain at the hotel. Mr. Joseph P. Deacon testifies that he understood it to be for the night ; and David Harmer, who sat on the opposite side of the office, some fifteen feet off, also so understood it. None other of the four or five persons, who sat nearer than Mr. Harmer, were called. But Mr. Francis Roth testifies, on the contrary, that, seeing Mr. Lippincott with the box in the crowded bar-room, he suggested his putting it in the office until he should go down town. And Mr. Lippincott expressly swears that "when he gave the box to Mr. Deacon he asked him to take care of it for him until he got ready to go home." In this he is corroborated not only by the conduct of Mr. Deacon, in simply putting the box in an unlocked closet (quite an insecure and improper place to remain for the night), but also by his own statement about two weeks after, on special inquiry by Daniel Deacon, Esq., "that the judge" (Lippincott) "had left the ballot box there for a little while, while he stepped out into the barroom," and afterwards "came and took it, the same as any other judge would do." The weight of evidence, the conduct of both parties, and the common sense of the thing, are clearly in favor of its having been left but temporarily in charge of Mr. Deacon.

3. No doubt all sorts of reports were current in Burlington on the night of the election, and, as usual, varying much with the complexion of the parties. The evidence shows that the *highest* majorities reported elected Mr. Lathrop by seven votes. To do this, it was necessary to give him one hundred and seventy-five in Burlington, four in Willingborough and eleven in Beverly. Mr. Stokes, by taking the *lowest* reported majorities in those townships—one hundred and sixty-eight, one and nine—was elected by five votes, and this was increased to seven by two questionable votes in Cinnaminson, then said to have been counted for Mr. Lathrop. Rumor, therefore, hung the candidates in balanced scales. Either was elected by *seven* majority, accordingly as you adopted the extreme of the one or the other class of reports.

4. A Mr. William H. Sherwood is the only witness who testifies that Judge Lippincott, on taking the ballot box from the telegraph office, held a conversation on the pavement in front of the office with Mr. Batten, the clerk, and then, followed by a crowd, went with him down on the westerly side of Main street. In his cross-examination, he admits that the only way he recognized them was by a box, or something like a box, being in the hands of one of them. Both Mr. Lippincott and Mr. Batten testify that they were not on the pavement together at all, but met casually nearly in the middle of Main and Broad streets, some thirty or forty yards from the telegraph office, and, without stopping to talk, passed on alone diagonally across to the northeasterly corner of Main and Broad streets, and thence down the *easterly* side of Main street to the Mayor's office, about one-third of the way to Kinsey's Hotel. They went into the Mayor's office together, on being informed that gentlemen from Springfield were there with the news from that township; and after talking with the Mayor and some half dozen others about twenty minutes, using the ballot box for a seat, Lippincott and McDowell, leaving Batten and the others at the office, went directly with the box down to Kinsey's. These three witnesses are corroborated by the Mayor, George W. Smith, Nathaniel W. Fenimore and William S. Kinsey. Sherwood was therefore mistaken, taking the most charitable view of his testimony.

5. There can be no doubt that all of the election officers and Jarrett Stokes, and many more democrats, were at Kinsey's Hotel on election night up to a late hour; but what *fraud* this tends to prove it is difficult to imagine, unless it be fraudulent for the leading democrats of the district on election night to assemble together at the principal democratic hotel.

6. But there is not a particle of testimony to prove that Michael W. Keegan was there until about one o'clock, after Lippincott had taken the ballot box home. This is clearly proved, not only by Keegan himself, but by Lippincott, McDowell, Thomas R. Richardson and Israel Wooden, and also corroborated by other witnesses who were at Kinsey's.

7. The expression of McDowell to Larzaleer, testified to by George Horn—"Mike can fix that right; he can do it better than we can"—if true, is, perhaps, the only thing in his testimony of which so much can be said. This witness has the singular misfortune not only of being contradicted at all points by others and corroborated by none, but of relating an absurd story of going out doors in the dark, some fifty yards distant, to watch for an hour or more the ballot box on the table in the bar-room. If true, he should be in the Lunatic Asylum. Both McDowell and Larzaleer swear that no such thing occurred; that they were not together in the street that night; and that they were not together, at the time and place mentioned by Horn, is abundantly shown by others, who prove that they did not leave Kinsey's together, but at different times and with other persons.

8. Mr. Elisha Belden is the witness on the part of the contestant, who testifies that Samuel K. Schuyler and other Democrats were at



Higbee's about *eight* o'clock of the morning after the election, offering to bet two to one on Stokes. Mr. Schuyler was called and testified that he did not get up that morning until *nine* o'clock; got his breakfast and went to Higbee's at *half past nine*; understood Lathrop was elected and paid a bet which he had made the day before on Stokes. After remaining awhile he went to the City Hall, where the judges were recounting, and understood that an error of some five or six had been discovered in favor of Stokes. From here he went up York street, then returned to Higbee's, found the crowd freely bantering two to one *against Stokes*, and he himself took such bets. It would thus seem that Mr. Belden's memory was singularly unfortunate, both as to time and circumstances. The betting, instead of being *before* the recount had commenced, was *after* the errors in Mr. Stokes' favor had been discovered, and, instead of being two to one *in his favor*, were directly the opposite. The time that Schuyler first got to Higbee's, as stated by him, is fully confirmed by Joseph L. Wright.

8. That the election officers convened at the City Hall in the forenoon of the next day after the election, recounted the votes and made corrections, reducing Mr. Lathrop's majority to one hundred and sixty-nine, is admitted by all; but the point in the claim is that they so met and recounted *without adjournment and contrary to law and usage*. Mr. Burling says "there was no announcement by the judges *at the close of the count* that they would adjourn over until the next morning to have a recount." But this witness and Mr. Jonathan Roberts left together, and Mr. Roberts says: "I stayed until they (the judges) were putting the papers in the box. I did not see it locked." Mr. Burling's is the only testimony tending to disprove an adjournment; and Mr. Roberts' show that they both left the election room before the adjournment. It was not announced until the judges had locked or was about locking the ballot box. Mr. Lippincott, the judge, testifies that "after having got through with the count, as I have described, the tickets, tally list and poll book were put in the ballot box and locked up; we then announced that we would adjourn until the next morning, to meet, recount and make out our returns, as usual. I announced that we would meet next morning at half past nine, in the Council Chamber, and Mr. Batten repeated it after me." All the other election officers swear, in substance, to the same thing. They leave no doubt that an adjournment was made.

Had such adjournments been customary in Burlington? That they had been for some fifteen or twenty years, is testified to, not only by all the election officers who had frequently acted as such before, but by Jos. S. Wright, Jonathan Knight, Michael W. Keegan, Paul Early, and also by William H. Stiles, one of contestant's own witnesses, who says: "It has always been the custom to recount the next day." This was on cross-examination, and on being re-examined in chief he again said: "It has always been the custom in this township, as near as I can recollect, to have a recount the next morning, after a State or county election." The attempt to controvert this testimony or limit the custom to spring elections, signally failed.

Having shown the fact of adjournment and the long established custom in Burlington to adjourn, whether lawful or not, has nothing to do with the *question of fraud*. An omission to do so, legal or illegal; would have been much stronger evidence of fraud or unfairness. But the undersigned are unable to discover anything in the election act prohibiting an adjournment, although, as a general rule, it would, perhaps, be safest and best for the officers to conduct their count with such care and continue it for such time as to satisfy themselves of the true result without an adjournment.

The fifty-fourth section of the act simply provides that upon closing the polls "the board shall proceed, in an open and public manner, to estimate and canvass the votes received, *and shall complete the same without any unnecessary delay.*" Here is nothing forbidding an adjournment. The count is to be completed "*without any unnecessary delay.*" The time necessary is left to the sound discretion of the board. They are bound to count, or "estimate and canvass," until they are satisfied, for the act expressly requires them to certify and sign "a full, true and correct statement of the result." (Sec. 62.) This is the main end to accomplish; and, adjournment or no adjournment, if at any time before the certificate is executed, an error should be discovered, either by recount or otherwise, it should be corrected; otherwise they would be required, under oath, to certify to a known falsehood.

9. That the three tickets with Mr. Stokes' name pasted over Mr. Lathrop's, were counted for Mr. Lathrop on the election night, is admitted by all; and so, too, was one of them the next morning, in open daylight, under the eyes of both McDowell and Naylor; and the name of *Levi French*, "as plain as the nose in a man's face," on another ballot, not only passed unobserved on election night, but escaped detection twice the next day, under the equally jealous eyes of Larzaleer and Stiles. These mistakes, at most, prove nothing but carelessness; and the wonder is, not that they happened, but that in a count conducted as the one in question, more mistakes did not occur. It is also admitted that the name of Mr. Stokes, on the two tickets in place of Mr. Lathrop's, erased, is in the handwriting of Michael W. Keegan. This proves only that they were altered by him, not the time when. He says he was active at the election *and altered several tickets in that way for the voters*. Such evidence of fraud can be found in every ballot box of the State!

10. It only remains to refer to the figures on the lower right hand corner of the tally list. These, too, are in the handwriting of Mr. Keegan. But when were they made? He swears that on the morning after the election he went to the Council Chamber; while the recounting was going on Mr. Batten whispered to him that an error of six votes, in favor of Mr. Stokes, had been discovered. The tally list was lying on the table near him, and he, thoughtlessly, made the figures in calculating whether the errors detected would be sufficient to overcome the vote for Mr. Lathrop, giving him the largest majorities reported in his favor. While doing this Batten called to him, "stop marking on my



tally list." Batten swears to the same thing, and he is corroborated by Messrs. Wall, Wright and Knight, who were present in the chamber at the time.

All the alleged facts or grounds of suspicion relied on by contestant to establish fraud in this township, are thus removed, either by overwhelming evidence of the non-existence of those in dispute, or by satisfactory explanations of those admitted.

In reference to the allegations of fraud in *Beverly* township, the facts are simply the following, as proved by all the election officers of that township, and others, except Charles H. Peast, one of the judges, who, having been called, as a witness, by the contestant, and discharged, after two days attendance, without being called, went down to the army of the Potomac, and was afterwards unable to be obtained by Mr. Stokes. At the close of the polls, the votes were counted. The clerk kept the official tally list. Two others—Mr. Hutchinson, a Democrat, and Mr. Linton, or some other Republican, (who, does not clearly appear)—kept memorandum tally lists. While counting, Mr. Hutchinson, who sat near the clerk, told him he had missed a vote for Stokes. He thought not; and the count proceeded to the close. On estimating his tallies, the clerk announced the result, stating that Mr. Lathrop had *eleven* majority. Both Mr. Hutchinson, and the Republican, who had kept the list on that side, said, openly, the majority was only nine. But the clerk declined making any corrections, without again going over the ballots, which he said could be done before making up their statement; and he and the other officers, without any public adjournment, agreed to meet the next morning, at the Democratic reading room, in *Beverly*, to correct errors (if any) and make out their returns. They met according to agreement, looked over the ballots, discovered the error of two votes, making Mr. Lathrop's majority nine, instead of eleven, corrected them, and made out and certified that as the true result, which is substantiated by the ballots in the box. This correction is the ground of fraud charged. If it prove it, then it is fraudulent in election officers to correct an error when discovered, instead of certifying a known falsehood. But the integrity of the proceedings, in both these townships, is not only vindicated by removing all the grounds on which the accusations of fraud are based, but it is also sealed by the oaths of the officers who conducted the elections. If not established, human testimony can scarcely establish anything. As to the ballot box, in *Burlington*, unless tampered with while in the telegraph office, in the custody of *Republicans*, it is impossible that it should have been afterwards, without the grossest perjury of at least half dozen persons. Within five minutes after being removed from there by Lippincott, he and Batten arrived with it at the Mayor's office. It was there used as a seat by Lippincott, and kept in the open view of some five or six, for nearly half an hour. From here it was again carried by Lippincott, with McDowell at his side, directly, and within five minutes, to Kinsey's hotel. It there remained, in the public bar-room, for about three-quarters of an hour, either on the table, exposed to all in the room, or

simply screened from public gaze behind the oyster bar, practically watched over by both Lippincott and Kinsey. Mr. Kinsey then got it in Lippincott's presence, and at his request, from behind the bar, where they had placed it; and Lippincott, accompanied by McDowell, carried it, openly, to his dwelling, about one hundred yards distant, and kept it there, under his bed, until he took it to the Council Chamber, next morning. During all this time the box had been locked by three keys, in the pockets of three individuals, who met at the Council Chamber. There each took his own key from his pocket, (where he swears it had remained from the time of his locking the box in that building the night before), and they then, openly and publicly, unlocked it, and took out and re-counted the ballots.

This is all true, or else Lippincott, McDowell, Larzaleer, Batten, Holtenback, Keegan, Kinsey and others are false.

In conclusion, the undersigned take leave to add that, after a careful investigation of this case, with a sincere desire of arriving at correct results, they entertain no doubt of the ineligibility of Mr. Lathrop to the seat in question; that in estimating and canvassing the votes, and in certifying the results, the election officers in the townships of Burlington and Beverly, were entirely honest, and desired faithfully to discharge their duties; that the frauds charged against them are not only not sustained by evidence, but are destitute of rational grounds of suspicion; that Mr. Stokes received a majority of the legal votes cast in his district for a member of the General Assembly, and is entitled to his seat; and that, in maintaining it against the accusations made, he has been necessarily subjected to very large expenses, for which he should be compensated.

Finally, the undersigned submit and recommend the adoption of the following resolutions:

*Resolved*, That Charles C. Lathrop, not being eligible to a seat in this House, and not having received a majority of the legal votes cast for a member of the General Assembly in his district, was not duly elected.

*Resolved*, That Jarrett Stokes, having received a majority of the legal votes cast in his district for a member of the General Assembly, was duly elected, and is entitled to the seat which he now occupies.

*Resolved*, That Jarret Stokes should be compensated for the necessary expenses incurred by him in sustaining his right to a seat in this House against the claim of Charles C. Lathrop.

MICHAEL TAYLOR,  
DAVID B. WYCKOFF,  
ADOLPH SCHALK,

*Majority of Committee.*

Dated Trenton, March 24th, 1864.

# MINORITY REPORT.



## MINORITY REPORT.

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The minority of the Committee on Elections, to whom has been referred the contested election case from the Second Assembly District of the county of Burlington, wherein Charles C. Lathrop is contestant, and Jarrett Stokes, sitting member, is respondent, beg leave respectfully to report that the Second Assembly District of the county of Burlington, consists of the townships of Springfield, Burlington, Wellingborough, Beverly and Cinnaminson. From the returns sent up from the several townships comprising the district to the Board of County Canvassers, it appeared that Mr. Stokes had four majority, and a certificate of election was duly awarded to him. The Board of County Canvassers, having no power to go behind returns made to them by the judges of election, could not act otherwise. The returns, as made by the judges of election for the townships of Burlington and Beverly, not being in accordance with the votes as *officially announced* by the judges of election on the close of the polls on the day of election, Mr. Lathrop served a notice on Mr. Stokes, in accordance with the provisions of our statute, that he meant to contest his right to the seat; and under that notice both parties have taken testimony in the city of Burlington, before John Rodgers, a master in chancery.

Your Committee *very much regret* that this testimony, in taking which much time has been expended, has not been printed and furnished to the members of the House, as was suggested at an early day by the friends of the contestant in this House. Its careful perusal would greatly aid in the investigation of the case, and would, in the opinion of the committee, fully sustain them in the view they take of this case. The returns from the different townships of the district, by which the Board of County Canvassers accorded a majority to the sitting member, were as follows: Burlington returns showed a majority for contestant of one hundred and sixty-nine, Beverly nine, and Wellingborough one—making in the aggregate one hundred and seventy-nine. Cinnaminson returned for the sitting member one hundred and fifty-five majority, and Springfield twenty-eight—making an aggregate of one hundred and eighty-three. In regard to Springfield, Wellingborough and Cinnaminson, there is no dispute, being, so far as we know, made in accordance with the votes cast by the returns.

The law requires (*see Nixon's Digest, 3d edition, page 242, Sec. 54-55*) "that as soon as the hour of seven o'clock in the evening shall arrive, the Board of Election Judges shall proceed in an open and public manner to estimate and canvass the votes received, and *shall complete the same without any unnecessary delay*, and on completing the same, *shall*



*audibly and publicly announce the result thereof*, particularly specifying the whole number of the names of the voters in the poll book, the name of each person for whom any vote shall have been given for any office to be filled at such election, and the number of votes given for each person for the office designated for him by such votes."

It is made the duty of the officers, as soon as the hour specified arrives, to proceed *at once* to *estimate* and canvass the vote, and to *complete the same without delay*. The work once commenced, it must be continued *without intermission until completed*. No adjournment is *provided for or allowed*, except while for dinner, when the box must remain in sight; one of the judges shall take out and examine each ballot separately, and *audibly and publicly read the same*, to be examined, numbered and strung in turn by *each of the other judges*, each of whom must be satisfied that the same has been correctly read. These provisions are clearly defined and easily understood.

The election officers of Burlington township were Benjamin F. Lippincott, judge; Hamilton McDowell, assessor; William Larzaleer, collector, and James R. Batten, clerk. Two of them—Lippincott and Batten—had served in the same capacity previously, and were supposed to know their duty.

The result of the election that night, *as announced in accordance with law*, in the township of Burlington, was: Lathrop, five hundred and forty-seven; Stokes, three hundred and seventy-two. (Of Beverly we will speak hereafter.) This is proven by the testimony of Burling, Page, Roberts, McDowell (his statement to Kinsey) and Joseph Wills, a Democrat and friend of Mr. Stokes. Larzaleer heard the majority at Beldin's Hotel, which was one hundred and seventy-five for Lathrop, and so told Stokes, who was waiting outside. No one of the election officers contradict this *fact*. Keegan's figures, of which we shall hereafter speak, on the clerk's tally lists, prove the true state of the vote.

Batten, the clerk of the election, swears that the vote announced for each candidate the night of the election was *truly announced* from the tally list as kept and footed up by him. William E. Page took them down as announced at the time, and produced the *original paper* on which his vote was taken. (See his exhibit, in connection with his testimony.) John G. Burling kept a tally list, and upon comparing with Batten's at the close of the count, was found to tally *exactly*, so far as the Assembly vote was concerned. That *tally*, as kept by him, is appended to his testimony as an exhibit. This is confirmed by Roberts, who aided in keeping the count.

In view of this, and the positive testimony of their being heard to state the result of the election that night, the committee cannot but think it very singular that no one of the election officers can tell what vote was announced, or the majority for Mr. Lathrop, when called to testify. Much interest was felt in the contest for Assembly; the Union vote was unprecedentedly large. Batten was around, by his own statement, seeking the returns from the other township, and yet did not know, according to his own testimony, the result in his own township,

which he had *himself announced publicly*, as the clerk of the election, and though he kept the tally and footed up the result.

When they had determined to recount, (after finding Mr. Lathrop was elected), and it was supposed there would be a different result in the morning, it may have been convenient for the officers to forget the result, as announced on the night of the election. What became of the ballot box? It was locked by the officers; the poll book, ballots, &c., had been deposited therein. Lippincott, the judge, took the box to the Railroad ticket office. Joseph P. Deacon swears that it was a little after ten o'clock, on the night of election, when he brought it to the office, (the telegraph and ticket office being connected). Deacon was the ticket agent. Lippincott requested him, he says, to take the box and *lock it up and keep it safely until morning*. Deacon took it, and put it away safely, but did not lock it up, for the reason that he could not find the key of the locked closet, which strikes the committee as being very unfortunate for the purity of the ballot box. David Harmer corroborates the statement of Deacon; they are both reliable citizens of Burlington; their character for truth and veracity stands unimpeached. Deacon has long occupied the position of ticket agent of the Camden and Amboy Railroad. He was elected freeholder by the Democrats of the township of Burlington.

It is true that his testimony is contradicted by Lippincott himself. His story being that he left the box until he could look round a little, and was ready to go home. He did not know when the office would be closed, and if he meant to take it home with him that night, is it reasonable to suppose that he would leave it in a place that might be locked up when he went for his box? But Mr. Lippincott is under indictment for frauds alleged to have been committed in making those election returns, and, if guilty, would he hesitate to cover it up by falsehood, particularly as Roberts' testimony shows that he did tell him a falsehood, if Lippincott's testimony is to be believed. Your committee have the sworn evidence of two credible witnesses against Lippincott; as stated above, the weight of evidence is against him.

It is sought to contradict this testimony of Joseph P. Deacon by the testimony of Daniel Deacon, who had a casual conversation with Joseph P. Deacon, while Daniel Deacon was in the train of cars stopping momentarily at Burlington, with Joseph P. Deacon standing on the platform, some eight or ten feet distant. It is much more charitable and reasonable to presume that, in the hurry and confusion of the moment, Daniel Deacon may have been mistaken as to what Joseph P. Deacon said, than that the latter and David Harmer have wilfully and deliberately perjured themselves. The one only implies the probabilities of an honest mistake upon the part of Daniel Deacon, while the other charges the other two witnesses with wilful perjury.

Your committee, in view of the evidence, are constrained to believe that the box was left by Lippincott with Deacon, as stated by himself and Harmer, to be safely kept until the next morning, and that, for reasons which Lippincott has failed to satisfactorily explain, he changed

his mind, and removed it to accomplish a purpose afterwards developed. By eleven o'clock that night, the reported majority from the townships comprising the district were all in, and were as follows, viz: for Lathrop—Burlington, one hundred and seventy-five, Willingborough by some reported four, and by others one; Beverly eleven,—making an aggregate of one hundred and eighty-seven and one hundred and ninety, (with four reported from Willingborough). For Stokes—Springfield twenty-eight, and Cinnaminson one hundred and fifty-five, making an aggregate of one hundred and eighty-three; thus electing Lathrop by four or seven majority in the district. Much money had been bet on the election of Stokes by his friends; the vote was a close one, and the result was very different than that anticipated by them. All the election officers were Democrats, and warm partisans of Mr. Stokes. By his own testimony, Lippincott went to the ticket office, and demanded the ballot box, quarter after eleven o'clock, which was handed him, and he took it away. He did not take it directly to his home, which was his alleged reason for asking for it; had he done so, no suspicion might have been excited. Fortunately for the ends of justice, your committee have been able to follow the box in its travels through the streets of Burlington, on that election night. By his own testimony, he was met after he left the ticket office by Batten, the clerk of election, and by Josephus Sooy, county collector of Burlington, (testimony by Jarrett Stokes also), and they proceeded, as Lippincott and Batten state, immediately to Mayor Hollenbach's office, who lives on the right hand, or east side of Main street, going towards the river, between Broad and Union.

Wm. Henry Sherwood testifies that he was present when Lippincott took the box from the ticket office; that he followed him to the door of the station room; that Batten was on the sidewalk at the door, waiting for him; that a hurried whispered conversation took place between them; that they, accompanied by a number of others, proceeded hastily down the street. They went down the left hand, or *west* side of Broad street, which is on the *opposite* side from Hollenbach's office, and proceeded to Union street, which they crossed going towards the river; here Mr. Sherwood left them.

The office of Hollenbach is *between* the railroad and Union streets, so that it is established by Sherwood's evidence that Lippincott *did not*, as he says, proceed immediately from the railroad ticket office to Hollenbach's with the ballot box, but that, in company with Batten, Stokes and others, he went down on the opposite side of Broad street. Larza-leer says he met Stokes at Kelly's hotel, which is on that side of the street, and below Union street. The box is lost sight of until it is found at half-past eleven o'clock, in Hollenbach's office. Mr. Batten fixes the time when they got there, that in answer to a question put by Lippincott as to the time when they entered, he pulled out his watch, "the same watch by which the polls had been opened and closed," and said it is half-past eleven. It was not later, according to Lippincott's testimony, than quarter-past eleven, when he left Belden's hotel (ticket



office) with the box ; so that, by his story, it must have taken him fifteen minutes to walk less than half a square !

From the evidence, the committee are constrained to believe that Mr. Lippincott has FORGOTTEN where he took the ballot box to, before he went to Hollenbach's with it, and that he did not go directly there with it. That it was taken to Hollenbach's office we believe, and it appears as not a little singular that *there* should have been assembled, just at that time, Lippincott, the judge of the election, McDowell, the assistant judge, and Batten, the clerk, with several others, friends of Stokes ; and Hollenbach says Keegan, (of whom we shall have occasion to refer to again), he thinks, may have been there. He doubtless was. At this time the returns, as reported, showed the election of Mr. Lathrop, a result not looked for by those friends of Mr. Stokes. Mr. Stokes was himself in the city of Burlington—although not the township in which he resided—until a late hour of the night. He was at Kinzey's hotel, according to the statement of Larzaleer, figuring up majorities, concluding that if Lathrop had one hundred and seventy-five in Burlington, he (Stokes) was defeated. If one hundred and seventy-two, it would be a tie. *If but one hundred and sixty-eight, he (Stokes) would be elected.* He was called over from Kelly's to Kinsey's by McDowell, and had a consultation, according to his statement to Roberts, about the propriety of a recount. It was said that there had been a recount after a city election on one occasion, and Mr. Stokes concluded that if such had been done in one case, it might with the same propriety be done in this. As matters now stood, he was beaten, and a recount could make it no worse for him.

Lippincott remained with the ballot box, at the office of Hollenbach, twenty-five or thirty minutes. Of all the persons who testified to being present at his office, called as witnesses by the respondent, *not one* was asked the question as to whether that box was opened *while in Hollenbach's office*. Much time was consumed, and many witnesses were examined to prove that the box was not opened while at Kinzey's hotel ; *not a single witness was asked the question whether it was or was not opened there.* Your committee are much surprised that this question was not put by respondent's counsel to Mayor Hollenbach. He, at all events, not being under indictment, would be looked upon as a disinterested witness. Leaving Hollenbach's office with avowed intention of going home, Lippincott, with the ballot box, was accompanied by McDowell, who *passed his own house* and went to the corner of Main and Pearl streets with Lippincott. They then proceeded to Kinsey's hotel, on the east side of Main street, near the river, and went into the bar-room, where were assembled quite a concourse of their Democratic friends. Lippincott places the box upon the table, and *leans upon it all the time*, except when he went to the bar to take a drink. He then asked Kinsey to put the box in some safe place, and it was put behind the oyster bar. Lippincott *sat watching it all the time it was behind the oyster bar*, "to see that nobody interfered with it." It was then surrounded by his Democratic friends ; and yet he had left it a full hour in the ticket office with the friends of the other party, feeling that it was perfectly safe.

Your committee are constrained to believe that the box had already been opened, and the string of Union tickets taken out and handed to Keegan to be altered, while this parade and vigilance over the ballot box was a mere blind to enable them to make testimony, in case suspicion should be excited. Mr. McDowell was shown into a private room, and soon despatched after Mr. Stokes, at Kelly's hotel, as before referred to. Between one and two o'clock on Wednesday morning, Lippincott gets the ballot box from behind the oyster bar, and prepares for a start. He lived but one hundred and fifty or two hundred yards from the hotel. It was a bright moonlight night; yet he has Mr. McDowell called out of the private room, and asked him to go home with him. When asked why he sent for McDowell, the reason given is, "I called him to tell him I was going home, and asked him to go along with me. It is generally customary for me to ask some one to go home with me on election nights." When, in passing from the hotel to Lippincott's house, it is to be borne in mind they found Michael W. Keegan standing at the corner of Main and Pearl streets, "solitary and alone," another and a different reason may be found. If the Union string of tickets had been abstracted from the box and given to Keegan, as we believe, for alteration, (two of the tickets in dispute were, by his own testimony, proved to have been written over by him), it was a most convenient time and place for him to return them, thus altered, to these officers. Batten and George Wetherill had been out on a reconnoitering expedition some two hundred yards from the hotel. This fact was drawn out by cross-examination of Wetherill, and respondent's counsel did not inquire on what business. *It is fair to presume that they were out to see if Keegan was at his post*, as Batten returned, and no doubt reported to Lippincott and McDowell, at the hotel, on which they left.

The next morning the election officers met at the City Hall, for the purpose of having, as they state, a recount, in accordance with what they have attempted to establish as a custom in that township. It appears it has been customary to meet the next morning after the election, for the officers to make out their returns or official statement, a practice reprehensible in itself, and without the authority of law. But in no one instance, from the evidence in the case, have they ever attempted before this to recount the votes at a State or county election on the next day. Though the respondent's witnesses have some of them testified loosely as to the fact, they could not point out a solitary instance when it was done; while, on the other hand, a number of gentlemen who have been election officers, and others, have testified that no such practice existed. In relation to the alleged announcement of adjournment for a recount next morning, Burling, Roberts, Page, all of whom were there at the close of the election, testify that no such announcement was made. It is evident that this matter of recount was an after thought.

But in the recount it was had only as regards the Assembly vote—that only was considered, but not as to the other candidates. It is a little remarkable that whilst *five* errors were discovered as to the Assembly vote, not one was discovered as to the sheriff, clerk, &c., although

there many split tickets in the box for them. At this recount three tickets were found upon the string of Union solids with the name of Jarrett Stokes in *print* pasted over that of Charles C. Lathrop. It is claimed that these were erroneously counted as solid Union tickets the night of election and given to Mr. Lathrop. Your committee much regret that these tickets were not produced and submitted to this House for inspection, as they requested they might be, as well as the altered tally lists. From the testimony it is shown that the name of Jarret Stokes, pasted over the name of Mr. Lathrop, was the most prominent feature in the tickets. It was printed wholly in capital letters, while the rest of the ticket was in small type. The letters composing the name of Jarrett Stokes were much larger and blacker than the other names on the tickets, and as testified to, could not have escaped the notice of a casual observer, much less an election officer, who was making a critical examination of the tickets to ascertain who was voted for, especially if that ticket would tell in favor of his candidate. These tickets had to pass through the hands of three of such friends of Mr. Stokes. Could they have been counted by all of them as Union tickets for Mr. Lathrop?

Mr. Larzaleer says : "*I examined each ticket with sufficient care to ascertain it was not a split ticket ; among the tickets handed me as solids I discovered no splits.*" His attention was particularly directed to the Union or Republican tickets. Another remarkable fact is, that though there were many split tickets *there were no other tickets in the box like these three*, while there were a number of Democratic tickets with Mr. Lathrop's name pasted over that of Mr. Stokes, all of which were discovered and counted properly on the night of the election. It is a little remarkable that these three tickets, of such a peculiar character, should have been overlooked and claimed to have been counted wrongfully.

It is also very singular that the mistakes in counting should have been confined to these three tickets, and all found on one side as in favor of Mr. Stokes and against Mr. Lathrop. Another remarkable fact is that if these three tickets, being, as stated, the only ones of the kind found in the box, had been honestly voted on the day of election, the men who voted them are still in the township of Burlington, and could identify them, though for two months past the attention of the public has been called to these tickets, the judges and Keegan being indicted for fraud, and awaiting trial for having, as is alleged, manufactured them. Yet no man has been found to come forward and father any one of these tickets as having voted it, and thus relive his party friends from charge of fraud.

There were two other tickets found in the box on the morning of the recount, with the name of Lathrop erased and the name of Stokes substituted. Those changes are made by writing on the one J. Stokes, the other Jarrett Stokes, which were not found or counted on the night of the election. The writing on these tickets is proved to be that of Michael W. Keegan. He admitted it himself. But he cannot tell for whom he altered them or who voted them. No man has come forward



to relieve him from his dilemma by acknowledging that he voted them. These five tickets increase the number announced for Stokes, on the night of the election, from three hundred and seventy-two to the number returned to the Board of Canvassers—three hundred and seventy-seven. The two tickets altered by Keegan, if done by the request of any voter, he could not fail to remember it. Upon being pressed, after declining to answer the question as being a private matter, he frankly admitted he could not tell for whom he altered them; being driven by the proof of his handwriting, it would have been dangerous to have named the voters unless he could do it truly.

George Horn heard Mr. McDowell say to Larzaleer: "*Mike can fix all that—he can do it better than we can.*" Abraham Wilmerton, Jr., testifies that on or about a quarter after one o'clock on the night of the election, Silas A. Coleman, a Democrat, stated to Charles Austin, in Higbee's hotel, that he might bet all the money he pleased, that Stokes would certainly be elected by a majority of three, if not four votes. *He says, after hearing him say this, I paid attention and turned around—Charles introduced him to me. He said, we could go home and bet on Jarret Stokes by three majority for certain, if not four. He had fifteen or twenty dollars he would bet himself. I says to him, I believe there is something wrong about this; he says, "never mind about that, we have got it fixed all right, for I have just come from there;" I asked him if there was anybody there from our neighborhood; he said Wallace Lippincott; William Lippincott, and Jarrett Stokes were there. He had just been talking with Wallace Lippincott—he was acquainted with him. I asked him the question, how they had fixed it—I wanted to know. He answered the way the tickets were counted. He said Wallace explained it to him. He said something the way the tickets were scratched.*

Coleman was in the room when Wilmerton was on the stand, and was identified by him. This statement stands uncontradicted. Upon the list of witnesses furnished by respondent to contestant are the names of Silas A. Coleman, Charles Austin and Wallace Lippincott; *they were not either of them called to testify.* Wilmerton is one of the most respectable and credible men in Cinnaminson township. If he had misunderstood or stated falsely he could have been contradicted by Coleman, Austin or Wallace Lippincott. He was not, and therefore his story must be taken as true. If Coleman had no such conversation with Wallace Lippincott, the latter could have exposed it; not having done so, it stands as a very strong point in the case to impress the minds of the committee with the conviction that a change of the votes had been produced that night in Burlington. How could Wallace Lippincott have known that mistakes had been made in counting the scratched tickets unless the ballot box had been opened? By the testimony of Clayton Conroe, clerk of the township of Cinnaminson, it is proven that as early as seven o'clock the next morning William Lippincott called upon him, and stated that it was a very close vote for Assembly, and wanted to know if he (the clerk) was sure they had counted the vote correctly the night before, and had him open the



box, and thought there should be two votes—one for Lathrop and one for C. C. Lathrop—deducted from the poll of Mr. Lathrop; but Mr. Conroe refused to make the change.

At a later period in the day Wallace Lippincott and Samuel R. Hunter visited Conroe, and Lippincott proposed to Conroe to *alter the official statement made the night before*, by taking these two votes from Lathrop's poll. This Conroe refused to do. It appears from the testimony of Stokes himself, and that of Thomas Richardson, that Mr. Stokes was also at Cinnaminson on that day, as well as Keegan; and that the latter was also at Beverly, where a change had been produced of two votes in favor of Mr. Stokes, and telegraphed to Mr. J. L. Wright of the same. All these facts leave on the minds of the committee a conviction of a concerted plan and arrangement to fulfil the declaration, as testified to on the part of George Horn and of Mr. Larzaleer, that if Mr. Stokes was not elected he should be.

There is evidence upon the face of one of the tally lists—kept by Mr. Batten, the clerk of Burlington township—going to show that the ballot box must have been opened between the time of the count on the night of the election and the recount the next morning, viz: certain figures in pencil mark on the right hand corner of the Union tally list (*Exhibit C*). The committee very much regret that their efforts have not enabled them to procure this paper for the inspection of the House.

These figures consist of the majorities announced for Mr. Lathrop and Mr. Stokes, respectively, on the night of the election:

	<i>Mr. Lathrop.</i>
In Burlington, - - - - -	175
In Beverly, - - - - -	11
In Willingborough, - - - - -	4
Total majority for Mr. Lathrop, - - - - -	190
	<i>Mr. Stokes.</i>
The reported majority for Stokes in Cinnaminson, - - -	155
In Springfield, - - - - -	28
Total majority for Mr. Stokes, - - - - -	183

These figures are proved to have been made by Michael W. Keegan. He so admits. These figures were discovered by Messrs. Roberts, Watts and Pugh on the Saturday week after the election, at the house of Mr. Lippincott. He and Mr. Batten were present, when their attention was called to them, and by whom those figures were made.

They each declared they could tell nothing about them—Mr. Lippincott adding that they must have been made after they had finished counting on the night of the election, for *up to that time they had not heard the returns from Springfield*. On the following Monday morning the same gentleman visited Mr. Lippincott's house, by agreement with the election officers, to examine the tickets in the box. All the election

officers, including the clerk, were present. The question was again asked, and some explanation desired, as to when and by whom the figures were made. Each declared for himself that he had no knowledge as to when or by whom they were made. They were told that a satisfactory explanation upon that point would go far towards relieving the officers of the election from the suspicions which had been excited.

It is now claimed that these figures were made by Keegan, in the council chamber at the recount, in public view. Mr. Batten says that on Saturday night he did not recollect who had made them. That, in turning the matter over in his mind on Saturday, he recollected that they were made by Keegan in the manner and at the time stated; that when asked on Monday about them he denied all knowledge of them, because of the manner in which he was treated by Watts and Roberts, thereby admitting that he *was guilty of telling a wilful and deliberate falsehood*. When before the grand jury in *December last* his attention was called to these figures, and he denied all knowledge of them; when called in a *second time* he recollected that Keegan had made them. This is proved by Mr. Sooy, one of the grand jurors.

Mr. Keegan swears that he met Mr. Batten on Sunday, after the day of the first meeting at Lippincott's. Keegan says: "He told me there was some trouble in relation to those figures on the tally list, and I told him it was easily explained. I told him he knew I made them. He did not recollect it after I mentioned it to him." And yet Batten swears "that when he turned the matter over in his mind on Sunday, it occurred to him that Keegan had made them."

The inference is that Keegan had made these figures when the box was improperly opened. Batten knew it. There was trouble about it; Batten could not explain it. He applies to his co-conspirator, whose ready wit furnished the explanation.

Again. Although Batten knew who had made them, when they met, on Monday he not only refused to tell Messrs. Roberts, Watts and Pugh, *but he gave no explanation to the judges of the election*. He says that he first told Lippincott, and then not until the succeeding week.

Some evidence has been offered to show that Keegan actually did make those figures on the tally list in the council chamber on the morning of the recount. Keegan swears to it. He is under indictment for having altered these tickets; he is not a disinterested witness, and his evidence, if received at all, is to be taken with many degrees of allowance. Some witnesses have been called to prove that they heard Batten tell Keegan not to scribble on his tally list. *No one swears that he saw Keegan scribbling on this list*. Batten says his tally lists were left on the clerk's desk in the council chamber; that it was there that Keegan scribbled on them.

Hon. Jas. W. Wall was present, and perhaps gives the most accurate account of the scribbling done by Keegan. We quote from his testimony: "I recollect seeing Mr. Keegan take a piece of paper from the desk where the judges of election were sitting on the other side of the council chamber, as detailed by the last witness, and commenced scribbling upon it with a pen or pencil, I do not recollect which. He went back to the clerk's table, and commenced scribbling. I heard Batten say, 'stop scribbling on that paper.'"

It seems, then, the tally list being on the clerk's desk, that so far from Keegan's scribbling on that, he procured from the desk where the judges were seated a piece of paper upon which he did his figuring at that time.

By the testimony of Daniel P. Naylor, these tally lists were in his possession *during the entire time the recount was going on, and they were placed there by Batten himself.*

Your committee do not find the evidence in the case to sustain the allegation that Keegan made those figures on the tally list in the council chamber on the morning of the recount. Keegan, on the morning of the recount, and before it was through, was offering to bet on the election of Stokes (although, by his own statement, he elected Mr. Lathrop by one majority), and did so bet. Would he have done this unless he had known in what a recount would result. He says he bet because Batten told him privately that they had found a mistake of the tickets.

*Question* (by respondent's counsel)—Do you mean the three pasted tickets?

*Answer*—Yes, sir.

He seemed to be entirely familiar with these ballots, although he had not seen them that morning at the City Hall.

Much pains is taken to show Mr. Keegan's whereabouts after Lippincott and McDowell took the ballot box to the house of the former. No attempt is made to account for him between the time the box was brought down the street and his being met on the corner of Main and Pearl by Lippincott and McDowell, with the ballot box in their possession. From the evidence in the case, your committee are forced to the conclusion that the ballot box in the township of Burlington was clandestinely and illegally opened, and five tickets that had been voted for Charles C. Lathrop were altered by substituting thereon the name of Jarrett Stokes. There was also one ticket which had the name of Levi French printed on it, which was counted for Jarrett Stokes.

Your committee also find, by the testimony adduced, that Isaac T. Price, who voted in Burlington for Jarrett Stokes, had, as shown by the testimony of R. H. Ross, moved from Burlington about the first of October, and was not entitled to a vote; and that Price told C. P. Fort he had moved to Trenton, and was



living there. Also by the testimony of Dr. Trimble and of Charles Hutchinson, that the latter voted for Mr. Stokes; that his vote was not a legal vote, having been a non-resident, as in December, 1861, his family removed to Philadelphia, and did not return to Beverly until the spring of 1863. Also that Alfred Kepner, as shown by the testimony of his father, John Kepner, was not a resident of the State for one year preceding the election, and Hezekiah Johnson testifies that he voted the Democratic ticket. They also find that, by the testimony of Richard H. Morrell and Philip F. Snyder, at the close of the polls in Beverly township, the following vote was announced after canvassing and summing up the votes cast, viz: for Charles C. Lathrop, one hundred and fifty-six; for Jarrett Stokes, one hundred and forty-five—giving Mr. Lathrop a majority of eleven votes. The judges of election testify that after such announcement to the public the ballot box was closed and returned to the township clerk, with all the keys thereof, evidencing that they considered the election over, and that they had nothing further to do but to make out their returns. But the next days seems to have brought a change over their views. Whether the reported election of Mr. Lathrop produced this change, or the influence from Burlington by the visit of Keegan, as testified by Richardson and himself, does not appear. But R. F. Wilmerton, the assessor, and C. R. Fenimore, the clerk, testify that the former came to the house of the latter; and, although they say they had agreed to meet in Beverly the next morning, such was their impatience to get into the ballot box that they opened it at once, and added one vote to the Democratic ticket without any consultation with their associate judges, and altered the tally list, though it had been signed by all the judges the night before. They then proceeded to Beverly, about two miles, where they assembled in a reading room over a butcher shop, known as the Democratic reading room, or headquarters of the party, and there the judge of election proceeded to overhaul the ballots, and reported that he had found one that Mr. Lathrop was not entitled to, and, without showing it to his fellow judges, who were at the time engaged in looking over some tax bills, they assented to its being deducted from the poll of Mr. Lathrop without any reason being otherwise given or examination of the ballot. They then proceeded to make their returns in accordance with these changes, reducing Mr. Lathrop's poll one vote and increasing that of Mr. Stokes one vote, making a change of two votes in favor of the latter from the *official and public announcement made on the night of election.*

The committee deem all such recounts and changes of the votes after the close of the election, are palpably illegal, null and fraudulent returns—the only legal and proper returns being a statement of the vote as *publicly announced at the close of the polls*, in accordance with the law as heretofore quoted.



It appears on the evidence that all the officers of election in Beverly township are Democrats, and supporters of Mr. Stokes.

It appears, also, from the evidence of Paul Jones, Azael Jone, Charles Stokes and Stephen Parsons that Mr. Lathrop purchased and took immediate possession of the property now occupied by him at Delanco, Beverly township, in September, 1861; that he had furniture, articles of housekeeping, library books, &c., therein from that date; that he continued in sole possession of said residence, being in and out of the same, and spending a portion of his time there during the fall and winter, and at the time of the purchase publicly declared his purpose and intention of making that place his *permanent residence*; and that all his acts subsequent thereto were in accordance with such declaration. He at once broke up housekeeping in Philadelphia, where he had been a resident six years previous, rented his house there, and afterwards sold the same, boarding his family during the winter months in the city until the month of April following, since which they have remained permanently in Delanco. In the spring election of 1862 he voted in Beverly township unchallenged, as is shown by Paul Jones, who testifies that Mr. Lathrop voted for him, the Democratic candidate for freeholder, being then, in the estimation of all parties, a legal voter, and indicating that he so considered himself, and, to all intents and facts of the case, so acted. He paid taxes in Beverly township in 1861 and 1862, and had no other domicile but that in Delanco since the fall of 1861; all of which is respectfully submitted.

The committee, in view of all the facts herein stated, of which there is the most positive testimony of a credible character, contradicted only by parties under indictment for frauds alleged to have been committed, by which the respondent and sitting member has obtained and (thus far) held the seat in contest—your committee deem that Mr. Lathrop was legally elected to the seat held by Mr. Stokes, the respondent, in this Assembly, for the Second District of Burlington county, and would respectfully move that he be admitted to the same, and that he be heard at the bar of the House in his own behalf on a day to be fixed by this House.

JACOB BIRDSALL,  
WM. N. HANCOCK.

*Minority of Committee.*



## CONTESTANT'S DEPOSITIONS.

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STATE OF NEW JERSEY, }  
BULLINGTON COUNTY, } ss.

Between

CHARLES C. LATHROP,  
Contestant,

and

JARRETT STOKES,  
Respondent.

*Depositions in the matter of the  
contested election in the Second  
Assembly District, Burlington  
County.*

I, John Rodgers, one of the masters and examiners of the Court of Chancery, do hereby certify that on the twenty-fourth day of December, in the year eighteen hundred and sixty-three, Charles C. Lathrop, of the township of Beverly, in the Second Assembly District, in the county of Burlington, did make application to me for the appointment of a time and place when and where depositions of witnesses should be taken in the matter of the contested election in the said Second Assembly District, wherein the said Charles C. Lathrop is contestant, and Jarrett Stokes is respondent; and being satisfied that the said Charles C. Lathrop had notified the said Jarrett Stokes of his intention to contest the right of the said Jarrett Stokes to a seat in the General Assembly of said State, pursuant to the statute in such case made and provided, I did thereupon appoint Wednesday, the sixth day of January, then next, at three o'clock in the afternoon, as the time, and at the house of Elisha Beldin, in the city of Burlington, in said Second Assembly District, as the place for the taking of the depositions of witnesses so as aforesaid.

And I do further certify that on the said twenty-fourth day of December, in the year aforesaid, the said Charles C. Lathrop did apply to me to issue subpoenas for the attendance of the following named persons, to be examined as witnesses, namely:

Alexander Armstrong,  
James Russell Batten,  
Elisha Beldin,  
Silas A. Coleman,  
Clayton Conroe,  
Joel R. Danser,  
Charles Fenimore,

Andrew Manderson,  
Daniel P. Naylor,  
Charles H. Reart,  
J. Howard Pugh,  
Recompense H. Ross,  
Jonathan M. Roberts,  
Samuel K. Schuyler,

Thomas Fletcher,  
 William Glover,  
 Charles Hutchinson,  
 George Horn,  
 John T. Hunter,  
 David Harmer,  
 H. A. Johnson,  
 Job King,  
 Charles Austin,  
 Charles Boyter,  
 John G. Burling,  
 Samuel Coleman,  
 Joseph P. Deacon,  
 Charles P. Fort,  
 Benjamin A. Farnham,  
 Godfrey Hays,  
 Samuel Hunter,  
 George Hulme,  
 Alexander Jackson,  
 Michael W. Keegan,  
 William Kopnel,  
 Morris J. Leeds,  
 Joseph L. Lamb,  
 William Larzaleer,  
 John P. McElroy,  
 Richard A. Morrell,

John Swanson,  
 John Sheddon,  
 Jarrett Stokes,  
 David B. Trimble,  
 Robert Vansciver,  
 James Watts,  
 Joseph Wills,  
 Daniel Wills,  
 Joseph L. Wright,  
 John L. Linton,  
 Benjamin F. Lippincott,  
 Charles McElroy,  
 Hamilton McDowell,  
 Isaac T. Price,  
 William E. Page,  
 Benjamin Ridgway,  
 Thomas M. Richardson,  
 William Stiles,  
 Josephus Sooy,  
 Philip F. Snyder,  
 George Smith,  
 Edward Woolman,  
 Samuel Wills,  
 Abraham Wilmerton, Jr.,  
 Richard F. Wilmerton.

And I do further certify that on the twenty-sixth day of December, in the year aforesaid, I did issue subpoenas for the attendance of the above named persons, as witnesses, at the time and place above mentioned.

And I do further certify that on the sixth day of January, eighteen hundred and sixty-four, Charles C. Lathrop, the contestant, produced before me James Watts, who, being duly sworn, did depose and say that he had served a notice of the names of witnesses, and the time and place of taking depositions, upon Jarrett Stokes. [*Exhibit A.*]

And I do further certify that on the sixth day of January, eighteen hundred and sixty-four, at the house of Elisha Beldin, in the city of Burlington, in said county, I was attended by the said Charles C. Lathrop, contestant, and Jarrett Stokes, respondent.

And I do further certify that the said Jarrett Stokes then and there objected to the taking of depositions on the application of Mr. Charles C. Lathrop, as a contestant of the seat of Mr. Stokes as a member of the General Assembly of New Jersey, because the said Charles C. Lathrop, at the time of the election held in the Second Assembly District, in the county of Burlington, on the third day of November last, at which the said Charles C. Lathrop



claims to have been elected a member of said General Assembly, had not been a citizen and inhabitant of the State of New Jersey for two years, and of the said county of Burlington for one year, next before said election, and now is constitutionally ineligible to the office of a member of said General Assembly, and consequently incompetent to contest the right of said Jarrett Stokes, the returned member, to his seat in said General Assembly, as will be seen in *Exhibit A, on the part of said Jarrett Stokes, respondent*.

Mr. Stokes admitted service of a notice from Mr. Lathrop that his right to a seat in the General Assembly would be contested (*Exhibit B, ex parte contestant*), and also service of notice of the time and place of taking depositions (*Exhibit A, ex parte contestant*).

### DEPOSITIONS.

John G. Burling, a witness produced on the part of the contestant, being duly sworn, said : I reside in the city and county of Burlington ; I have resided here all my life, twenty-three years ; I am a voter in this township, and was a voter on the third day of November last ; this township is in the Second Assembly District, in the county of Burlington, there was an election held on the third day of November last for a member of the General Assembly, and for clerk, sheriff and coroners of the county ; I was present and did vote at that election ; the officers were Benjamin Lippincott, judge of election, J. R. Batten, clerk ; Hamilton McDowell and William Larzaleer were the other judges ; Charles C. Lathrop was the Union candidate and Jarrett Stokes was the Democratic candidate for Assembly ; I was present when the polls closed ; I was present while the votes were being counted off ; Benjamin Lippincott took the tickets from the ballot box, and read them as solid Republican, solid Union, or solid Democratic tickets : I kept a tally or check list of the votes as they were counted from the box by Mr. Lippincott ; no one else kept the tally ; Mr. Roberts assisted me ; the clerk kept the regular tally ; I was seated there openly, so that every one could see what I was doing ; when the vote was counted off my tally agreed exactly with that kept by the clerk, Mr. Batten ; when we were through with the solids we tallied them, and at the close of the count my count and his agreed ; I kept a count of the votes cast for sheriff and clerk, respectively, as well as for member of the Assembly ; at the close of the count J. R. Batten announced one list and Benjamin Lippincott, the judge of election, announced the other ; the clerk read the whole number of votes which one party had received, and the judge read the whole number of votes which the other party had received, afterwards ; this announcement was made publicly, and in the room where the election had been held ; that announcement

agreed with my tally; I remember, referring to my memorandum, that it was announced that Charles C. Lathrop had received five hundred and forty-seven (547) votes as a candidate for the General Assembly in the Second District, and that Jarrett Stokes had received three hundred and seventy-two (372) votes as a candidate for the General Assembly, giving Mr. Lathrop a majority of one hundred and seventy-five (175); during the progress of the count I saw Mr. Lippincott take from the ballot box a piece of paper, which he unfolded; I took it to be a check; it was long and narrow; I asked him what it was; he replied that it was none of my business; he folded it up, and put it in his vest pocket; I do not recollect whether he showed it to any one or not; I heard Mr. Lippincott say that he could not make out the name on a ticket; I saw the face of it myself; the name was written opposite the name of the candidate for Assembly, which had been scratched out; it was a Democratic ticket, and the printed name of the candidate for Assembly had been scratched off; I suppose that it was Mr. Stokes; that ticket was not counted for Mr. Lathrop; it was not counted for any one for Assembly; I read the name of Lathrop on the right of the ticket. (Mr. Stokes objected to so much of the above testimony as relates to a vote being counted, because it does not relate to any of the matters contained in the notice.) If I mistake not the ticket was passed around to the other judges; they got through counting the votes between half-past nine and ten o'clock that night; I do not know that the judges of election expressed any surprise at the result; one of them said that Mr. Lathrop was elected if Springfield did not give any greater majority than usual; the returns from Cinnamonson were received before they were done counting off here.

Being cross-examined, says: I was not one of the officers of the election; I did not hold any office at that time, nor do I now; I did not belong to the army then, nor do I now; I was appointed by the Republican party to keep the tally at the close of the election; I think that there were two appointed by the Democratic party; the judge of election learning that I had been appointed to keep a tally, told me where to take my seat; when the tickets were taken from the box the judge read the title, and called them solid Republican or solid Democratic, without reading the names on the tickets; upon thus announcing them as solid Republican or solid Democratic, sometimes he handed them to one of the other judges and sometimes he threw them down on the table; he handed or threw down the Republican tickets to one judge, and the Democratic tickets to the other judge; one judge took charge of the Republican tickets, and the other judge took charge of the Democratic tickets; each of the judges numbered the tickets as they were handed to him, and strung them on a string; each judge kept a string upon which he strung the tickets he took

charge of, and each one numbered the tickets which he took charge of; I cannot state whether each one numbered continuously; I think, upon reflection, that each one numbered his tickets only on his string; the split tickets, as taken from the box, were thrown into a hat standing on the table by the side of the ballot box; the split tickets were counted after the solids; each name was read; for instance, the judge would say to the clerk, "Give all the Republicans *one* except so and so," or two, as the case might be, and in the same way with the Democratic; sometimes the names were read all the way through, and sometimes they were not; I do not know what was done with the split tickets after they were read; I cannot say whether they were numbered and strung or not; I suppose that they were filed; the clerk and myself compared our tallies from time to time, as the count proceeded; every time we marked five on either ticket, either the clerk or myself would say, "Tally," and he or I would answer; I do not know whether there was any other person engaged in keeping tally, or that joined in a comparison of tallies; I kept the tally for the sheriff and clerk on the same piece of paper; I have preserved the paper; I have the paper by me; these two papers are my tally lists; they have been in my possession ever since they were made; they have not been in any wise altered since; the same and no other marks and figures are on them now that were on them when I made them; the figures and marks on the back were made that evening; I cannot state what was done with the strung ballots after the count had been taken; Mr. Jonathan M. Roberts sat by my side and watched me while I was keeping the tally, and saw that I kept it correctly; the announcement by the clerk and judge was made immediately after the figures had been carried out and footed up; the judge announced either the Republican or Democratic vote and the clerk the other, but I cannot tell which; I did not see whether there was anything written or printed on the piece of paper taken from the ballot box, as stated in my examination in chief, by Lippincott; I supposed it to be a check on a bank; I did not see anything of it after Lippincott put it in his pocket; I did not have the ballot in my hand of which I have spoken on which the name of the candidate for Assembly was erased; I said that he showed it to the other judges, and then put it into the hat; it did not go out of his hands, to the best of my knowledge; this occurred while we were counting the solids, and when he (Lippincott) said that he could not make it out, he put it into the hat where he put the other split tickets; I did not see anything more of it afterwards; I do not remember that there was anything more said about it while we were there; I do not know whether it was counted; I think, upon reflection, that this ticket was found when they were counting the split tickets, and was not counted for any one; I was mistaken when I



said that it was thrown into the hat with the other split tickets; I mean now to say that I do not recollect that anything was said about this ticket until they were counting the split tickets; I presume that it went with the other split tickets—I don't know, however; it was thrown on the table, I know; the name written was at the right of the name which had been erased; I sat upon the opposite side of the table from the judge; Mr. McDowell sat at the left of the judge, and nearly opposite to me; Mr. Larzaleer sat at the end of the table, to the left of the judge; in showing it to the other judges I do not think he turned the face of it around towards me: I saw it when it was thrown from his hand on the table; I saw it thrown on the table; I saw it on the table, and not in the hat; I did not pick it up; I did not say anything to anybody about the name of Lathrop being intelligible at the time, except to Mr. Roberts.

Examination in chief resumed—During the progress of the count, when the clerk and I compared our tallies, they agreed invariably; as judge Lippincott took each ticket from the box he examined it, and the other judge to whom he handed it examined it before he numbered and filed it.

Cross-examination resumed—I am positive that there was no announcement by the judges at the close of the count, that they would adjourn over until the next morning to have a recount.

(Mr. Stokes asked that the tally lists referred to, and produced by the witness in his cross-examination, be marked as exhibits. Mr. Lathrop replied that they will be offered in evidence and marked as exhibits at the proper time.)

JNO. G. BURLING.

Sworn and subscribed before me, January 6, 1864.

JOHN RODGERS, *M. C. C.*

The further examination of witnesses was adjourned until Thursday, January 7, 1864, at the same place.

JOHN RODGERS, *M. C. C.*

THURSDAY, JANUARY 7, 1864.

William E. Page, a witness produced on the part of the contestant, alleging himself to be conscientiously scrupulous of taking an oath, and being duly affirmed, says: I reside in Burlington; I have resided here between fifteen and twenty years; I have been engaged in the mercantile business here during that time; I voted at the last general election, held on the third of November last; the election was held at the City Hall; I was present at the close of the counting of the votes; the judge and the clerk announced the result of the election; Benjamin Lippincott was the judge, and James Russell Batten was the clerk; the announcement was made publicly; I heard it; after they had done counting the bal-



lots they footed them up. Mr. Lippincott rose and said that if they would be silent he would announce the vote; he said he would read the Union, or Republican vote; he held that tally list in his hand, and then commenced reading the names of the candidates, and the vote each one got, and, for my own gratification, I put down the vote each one got as he read it off. The result, as I took it down, is as follows: the first name on the ticket received five hundred and forty, the second name five hundred and thirty-seven, for Mr. Lathrop five hundred and forty-seven, then five hundred and thirty-eight, next five hundred and thirty-three, next five hundred and thirty-eight. Then Mr. Batten read off the other tally list; he announced the Democratic ticket received, the first name, three hundred and eighty-four, the next three hundred and eighty-five, the next three hundred and seventy-two—this was Mr. Stokes' vote; then three hundred and eighty-seven, then three hundred and eighty-three, and three hundred and seventy-one. I am not so sure about the coroners; I did not feel so much interest; but the vote for clerk, sheriff and assemblyman, I was particular to get correct.

WM. E. PAGE.

Affirmed and subscribed before me, January 7, 1864.

JOHN RODGERS, *M. C. C.*

Jonathan M. Roberts, a witness produced on the part of the contestant, alleging himself to be conscientiously scrupulous of taking an oath, and being duly affirmed, says: I reside in the city of Burlington; I have resided here nearly three years; I am a manufacturer of fire bricks; I voted at the election held in the township of Burlington, held on the third of November last; the tickets used on that day were headed Union or Democratic; I did not see any others; I was present when the polls were closed, and while the votes were being counted off; I saw Mr. John G. Burling there; he was engaged in tallying the vote as it was called off by the judge; I sat immediately alongside of him; the tally kept by him coincided with the tally kept by Mr. Batten, the clerk, every time they compared while the solid ticket was counted; when they came to count the split, there was no comparison between the clerk and Mr. Burling, further than to cry tally each time they marked *five* for each candidate; when they finished counting, there was a difference, I think, between Mr. Batten's tally and that of Mr. Burling—Mr. Batten's tally had two more tickets tallied than Mr. Burling's; I do not know for what candidate the difference was; I do not recollect whether the tallies for assembly agreed; three or four of the last split tickets read by Mr. Lippincott were read so low that we could not catch all the names; the difference was corrected at the time; Mr. Burling made his tally to correspond with Mr. Batten's; we were satisfied that Mr. Batten had the tally as the votes were announced by Mr. Lippincott; I heard the vote announced by the clerk and the judge; I did not make any memorandum of the result, depending upon Mr. Burling's tally; I saw him do all that he did do. I heard the statement made by Mr. Burling, yesterday, when he was examined as a witness.

*Question*—Does your recollection correspond with his statement yesterday, as to the result of the vote?

(Mr. Stokes objects to the question because the witness has no right to state whether his recollection corresponds with the statement made by the witness yesterday, referred to, but only as to his recollection of what occurred at the time of the announcement.

*Answer*—It does, distinctly, especially as to the vote for Assembly.

The votes as announced at that time for Mr. Lathrop and Mr. Stokes, respectively, gave Mr. Lathrop one hundred and seventy-five majority over Mr. Stokes ; this announcement was made after the votes had been counted, the figures carried out and footed up, by Mr. Judge Lippincott and Mr. Clerk Batten, respectively, to the public who were then assembled ; I stayed until they were putting the papers in the box ; I did not see it locked.

At this point the ballot box [placed in my possession by Mahlon Hutchinson, the prosecutor of the pleas, on the sixth day of January, 1864, locked, and who at the same time delivered to me the three keys of the locks thereto,] was opened by me in the presence of Mr. Charles C. Lathrop, the contestant, and Mr. Jarret Stokes, the respondent.

(Mr. Stokes objected to that part of the above record contained in square brackets.)

Paper marked Exhibit C, on the part of the contestant, being a tally list taken by me from the ballot box, being shown to the witness, he says : I have seen this paper before, at Mr. Lippincott's house, some time after the election—ten days or two weeks, perhaps, after ; I also saw it when I was before the Grand Jury ; it was shown to us by Mr. Lippincott and Mr. Batten, as one of the tally lists kept on the night of the election.

*Question*—Look at the vote carried out on that paper, opposite the name of Charles C. Lathrop, and state what it is?

(Objected to by Mr. Stokes, on the ground that the paper must speak for itself.)

*Answer*—Five hundred and forty-six.

I think there has been an alteration made in one of those figures ; where the figure six (6) now stands the paper appears to be scratched and the writing blurred. The sum total carried out opposite the splits is forty for Mr. Lathrop. There seems to have been an alteration made there. I see some figures in pencil on the right lower corner of this paper ; the figures are as follows :

		547	
		372	
		<hr/>	
		175	
175			
4			155
11			28
<hr/>			<hr/>
190			183

The figures 547 and 372 denote the votes received by Mr. Lathrop and Mr. Stokes, respectively, as announced by the judges that night, in the township of Burlington; the number 175 denotes the majority received by Mr. Lathrop over Mr. Stokes: the figure 4 denotes the majority reported to have been received by Mr. Lathrop in the township of Willingborough that night, though in the first part of the evening the majority in that township for Mr. Lathrop was reported to be *one* (1.) The figures eleven (11) denote the reported majority for Mr. Lathrop in Beverly township; the numbers 155 denote the reported majority for Mr. Stokes in the township of Cinnaminson, and the number 28 denotes the reported majority for Mr. Stokes in the township of Springfield; these figures in pencil mark were on that paper when I first saw it; I have every reason to believe that those figures are in the handwriting of Michael Keegan; I have no personal acquaintance with Mr. Keegan; his reputation here is that of being an active member of the Democratic party; I had a conversation with Mr. Lippincott and Mr. Batten, and with Mr. McDowell and Larzaleer also, in reference to these figures in pencil mark.

*Question*—State when and where these conversations took place, and what they were, and the order in which they occurred.

(Mr. Stokes objects to so much of the question as relates to what the conversations were, because both Lippincott and Batten are competent witnesses, and their statements out of doors and not under oath are not competent testimony.)

*Answer*—The first conversation was had at Mr. Lippincott's house, Mr. Lippincott and Mr. Batten both being present; in the course of conversation I asked Mr. Batten whether he did not know what the result of the vote of Assembly was, as announced that night (the night of election); he replied that he did not—that he had made no memorandum of it; I then said, "If you did not, somebody else did," and directed his attention to these figures in pencil on the tally list, and asked him who made those figures: he said, "They are not my figures;" I then asked him whether he did know who made them; he said he did not; I asked him if he knew when they were made; he said he did not; Mr. Lippincott then remarked that they could not have been made that night up to the time the election closed, for they did not know what the vote was from Springfield until they left the hall; this was all that passed at that interview as regards these figures, so far as I was individually concerned; that interview was on a Saturday evening, some time after the election; on the following Monday morning myself, in company with James Watts and Dr. Howard Pugh, met all the election officers at Mr. Lippincott's; I again called the attention of each of them, and asked them whether they knew who made these figures or when they were made; they each and all said they had not made them, nor did they know who made them nor when they were made; I asked whether the tally list had been out of their possession at any time; they said that it had not, that the keys had been in their possession, and they had the control of the papers; subsequently I had a conversation



with Mr. McDowell, when he said that nothing improper could have been done with the election papers because he had one key, and the box could not have been opened without that key; I then said that he might have had the key, but that there was positive evidence in my estimation that the box had been opened nevertheless, or otherwise how could those figures in pencil have been put upon the tally list without the knowledge of the election officers; his reply was, "That is true—those figures have no business there;" I recollect no other conversation about those figures with the election officers.

(Mr. Stokes objects to the whole of the evidence relating to these conversations, and that any cross-examinations relating thereto will be subject to this objection.)

Exhibit C being again shown to the witness, he says: There have been alterations made in the figures 509 and 506, at the top of the paper; I cannot say whether there has been any alteration in the figures 506 upon looking at the paper again; my impression is that the figures 506 have been intended as substitutes for the figures 509, crossed off.

Exhibit D, on the part of the contestant, being a tally list taken by me from the ballot box, being shown to the witness, he says: The number of votes given to Mr. Stokes on this list is three hundred and seventy-seven; there appears to have been an alteration in the last figure (7); it is perfectly manifest that the paper has been scratched there; the number footed of splits for Mr. Stokes is fourteen; there appears to have been an alteration there in the figure 4; the paper is scratched, and that figure seems to have been made subsequently; the split tickets for Mr. Stokes tallied on the list are eleven (11), and carried out fourteen; I know that there was a ticket voted at the election held in the township of Burlington on the third of November last, with the name of Levi French on it as a member of the Assembly; I saw the ticket; it was a Democratic ticket; it had the Democratic candidates for clerk, sheriff and coroners on it.

At this time Mr. Lathrop asked that the strings of ballots should be taken from the ballot box and examined, which I did. The string of ballots headed "Democratic" was examined, and the ballot marked 54 being shown to witness, he says: That is the ticket to which I refer, as follows:

DEMOCRATIC TICKET.

*For Sheriff*—Joseph A. Hargrove.

*For County Clerk*—Ridgway Hancock.

*For Assembly, Fourth District*—Levi French.

*For Coroners.*

Abraham B. Kelley,

Joseph B. Cramer,

Henry F. Reeves.

It is strung with the solid Democratic tickets, and it was admitted by the judges that it was counted as a solid Democratic ticket and for Mr. Stokes, and that it was returned for Mr. Stokes when they made their



return to the Board of County Canvassers; when the second conversation took place at Mr. Lippincott's house we examined the tickets, and tallied them over; during that examination a ticket was reached, and read for sheriff and clerk on the Democratic ticket; the name of Mr. Lathrop was written with ink on the ticket, and Mr. Batten said, "Stop, I don't know how about counting that ticket for Mr. Lathrop;" the ink spreading, the ticket was blurred, but it was distinctly legible; it was suggested at that time that this was the ticket which was counted for Mr. Lathrop at the second count at the City Hall, at which time they counted two more for Mr. Lathrop than they did the night before; I understood that it was admitted that one vote was not counted for Mr. Lathrop on the night of the election to which he was entitled, but which was counted for him the next morning; if this vote for Levi French had not been counted for Mr. Stokes, and the vote not given to Mr. Lathrop at night, but given to him the next morning, had been counted to him (Lathrop) the night before, Lathrop's majority would have been one hundred and seventy-seven, and, with the additional vote counted to Mr. Lathrop, would have made his majority one hundred and seventy-eight; the judges did not account for the change in the result throughout; it was admitted by the officers of the election that one vote was gained to Lathrop by reading the ticket I have referred to as not being read on the night of election, and that there was a change of six against Lathrop on account of three tickets, which had been counted for Lathrop as Union solids the night of election, being found the next morning with the name of Jarrett Stokes pasted on slips of paper over the name of Charles C. Lathrop; there were two other Union tickets which were admitted to have been found, on which the name of Mr. Lathrop had been crossed off and the name of Mr. Stokes written, which had not been read the night before, having been counted as blanks for Assembly; I saw the tickets there, but did not examine them; I saw them before the Grand Jury.

The tickets on the Union string were then taken from the ballot box by me, and those numbered respectively 509 and 511 being shown to the witness, he says: I cannot say in whose handwriting the name Stokes is written on the ticket No. 509; it has some peculiarities of the writing of Michael Keegan, but whether he wrote it I cannot say.

*Question*—State whether, in your opinion, the name "Jarret Stokes," written on ticket No. 511, is in the same handwriting as the name "J. Stokes," on ticket No. 509?

(Mr. Stokes objects to the question.)

*Answer*—I think the handwriting is by the same person; I think the writing on ticket 511 is that of Michael W. Keegan; I identify this more particularly as having marks similar to his handwriting; they seem to me to be written in a disguised hand; Mr. Stokes had two more counted to him on the second count than were counted on the night of election on the scratched tickets, and Mr. Lathrop had two more on the scratched tickets; it was stated by the judges that there were four votes for Assembly counted on the second count—two

for each candidate—than had been counted the night before ; for three they accounted for, the other they did not ; if Lathrop's majority in Willingborough had been *four*, as reported on the night of election, and the two votes which were discovered in his favor the next morning had not been found and counted for him, Stokes' majority in the district would have been *one* ; with the two votes discovered for Mr. Lathrop, Mr. Lathrop would have been elected by one—that is, counting the changes which have been made, taking as a basis the count on the night of election ; I saw the three tickets which had the name of Jarrett Stokes pasted on at Lippincott's house and before the Grand Jury ; the tickets are strung among the Union solids, and are numbered 35, 185 and 385.

The ticket No. 35 being being shown to witness, he says : That is one of the three tickets to which I refer.

Ticket No. 185 being shown to witness, he says : That is another.

Ticket No. 385 being shown to the witness, he says : That is the third ; and these, it was alleged, were counted as solid Union tickets on the night of the election ; this was the explanation of the difference ; I do not think that any one saw the tickets on the night of the election but Mr. Lippincott ; I had a conversation with Mr. Lippincott and Mr. McDowell each ; I saw McDowell twice and Lippincott once after the election as to the whereabouts of the ballot box on the night of election ; I went to McDowell's store, and inquired of him there as to his knowledge of the whereabouts of the ballot box between the time of the closing of the election and the recount the next morning ; he told me that after he left the City Hall the box was taken away by Mr. Lippincott, and he saw nothing of it for sometime afterwards until he saw Mr. Lippincott going down the street with the box that night ; that they passed on together down Main street in the direction of both their homes, and he suggested to Mr. Lippincott that they should have a drink before they went home ; that they went down with the intention of going to one of the hotels ; when they got as far as Pearl street, seeing that the hotels were closed, they separated, each proceeding in the direction of his own home ; at that moment Mr. McDowell observed that the door of Kelly's hotel was open, and that there was a light in the room ; he called to Mr. Lippincott, and he came back ; they then started to go to Kelly's hotel ; before getting there they saw the light at Kinsey's hotel ; they changed their purpose, and went over to Mr. Kinsey's ; Mr. Lippincott, when he went into the bar-room, placed the ballot box on a table or stand in the bar-room (I do not recollect which he stated), where it remained so long as he was in the bar-room ; that himself and others were invited by Mr. Kinsey into another room to get out of the noise and confusion of the bar-room ; that he remained in that room for some time—he thought for half an hour he said—and that on coming out into the bar-room again the box was gone, and that he saw nothing more of it until he saw it on its way to or at the City Hall, I do not recollect which ; after this conversation with Mr. McDowell I immediately went down to Mr. Lippincott, and saw him at his house ; I introduced the subject with him, as I had with Mr. Mc-

Dowell ; Mr. Lippincott made substantially the same statements to me which Mr. McDowell had made about the box, up to the time when it was placed upon the table ; he stated that after the box had been sitting on the table for some time—he could not state for how long, but not long—it was taken by himself to Mr. Kinsey, he asking Mr. Kinsey where he could put it where it would be safe ; Mr. Kinsey pointed to a corner under the oyster bar, and told him to set it in there ; that he presumed that it had set there until he went home ; that he had gotten it from the same place where he had set it ; I asked him when he went home ; he said that he could not exactly fix the hour, but that it must have been shortly before Kinsey closed his hotel, as most of the people had left ; I asked him who were there ; he said several parties from Springfield township, and Mr. Michael Keegan and Mr. Batten, of Burlington ; that he and Mr. McDowell left the hotel together ; that he carried the box in his hand ; that Mr. McDowell accompanied him to his door, and saw him take the box into his house ; I said, “ Are you not mistaken about that ; ” he said, “ No, certainly not ; ” and I was so surprised at the statement that I said, “ Then Mr. McDowell must be a great liar ; ” he asked, “ Why so ? ” I said, “ Because he told me that the last he saw of that box was when you set it on that table ; ” he then said, “ I can’t help it—he saw me take the box home ; ” Mr. Jarrett Stokes has told me that he was at the hotel on the night of the election ; he said that he was there late, but could not say how late ; that it was about ten o’clock when he came to town ; that it was quite late when he went over from Kelly’s hotel to Kinsey’s hotel ; he said that some one came to him at Kelly’s hotel, saying that the Democrats were at the other hotel, and that he had better go over there, so I understood it.

The tally list of the township of Beverly, marked Exhibit E, on the part of the contestant, being shown the witness, (the same having been produced here by the clerk of the township of Beverly, Charles R. Fenimore, and by him taken out of the ballot box of that township in my presence), he states that the number carried out for Mr. Lathrop is one hundred and fifty-five (155) ; the number tallied is one hundred and fifty-six (156) ; there has been an alteration in the last figure ; there has been a figure 6, and the figure 5 is written over it ; the number carried out for Mr. Stokes is one hundred and forty-six (146) ; there seems to have been the number one hundred and forty-five (145) in pencil mark, and altered to 146 in ink. I have had some conversation with Mr. Charles R. Fenimore, the clerk of Beverly township ; it was at his house ; I think it was a day or two before the last court met at Mount Holly ; Mr. Lathrop was with me, and he introduced the matter by asking Fenimore how the judges had lessened Mr. Lathrop’s majority by two votes, from the vote as announced on the night of election ; that he (Mr. Lathrop) could not explain it to me ; Fenimore said that one of the votes lost to Mr. Lathrop arose from his name being crossed out on a ticket that had been read for him the night before ; they had a recount, too, as they called it, the next day ; that he could not account for the other *one* that was lost ; there was a difference of two votes against



Mr. Lathrop in the returned majority from that announced at the close of the count; he (Fenimore) was not able to account for the vote which Mr. Stokes had gained; I asked him when and where this recount took place? he said it took place the next morning after the election; they commenced about nine o'clock, and that they got through about twelve o'clock, as he said; I asked him, did it take you three hours to count so few votes? he said that they were engaged in making out the certificates and recounting the votes; he said that the recount took place, I think, in the second story of Perkins' butcher shop; I asked who was there; he first said that the election officers were there by themselves; no others were present; the count was made by them; he afterwards said that there were persons going up and down, or in and out, I do not recollect which; some person who came to pay a tax, that was the only one whom he could identify as having been there, beside the election officers; I asked Fenimore whether they had, at the second count, counted all the votes for all the candidates; he said that they counted nothing but the vote for Assembly; the reason he assigned was that they considered that of more importance than those for the other candidates; I asked Fenimore when they made out their certificate of the result of the election, whether they had not made it out at the close of the count; he told me that they had not; that they made out no certificates, or signed no certificates until the next morning.

My attention was called to the vote for coroners in the township of Burlington, as returned by the officers of election; a person by the name of Frake received ten votes which were not returned for him; I presume that they were counted as Democratic solid tickets.

(Mr. Stokes objected to all the evidence of the witness relating to conversations between him (the witness) and the several election officers.)

Being cross-examined, says: I have no personal acquaintance with Michael Keegan; I have not known him by sight long; I believe that the first time I saw him to know him by name was when he entered into recognizance at Mount Holly; I have never seen him write; I know he can write; I had seen writing that I was convinced was his, receipts given to himself, the body of which was written by himself; I only know it by having seen those receipts written in a book kept by him as secretary; I saw them in the possession of James Watts; it has been within the last two or three weeks; it may have been longer; I knew it because the handwriting of the receipts was the same as the handwriting of the record generally; my attention was called to the handwriting in that book growing out of a statement received from George Horn; Mr. Horn stated that he was, on the night of the election, at Kinsey's hotel, or in front of it, when Mr. McDowell and Mr. Larzaleer came out of the hotel to the pavement, and while standing there McDowell remarked to Larzaleer that they might as well go home, Mike could get through with that matter as well without them as with them; I asked him whether they said what Mike; he said that they did not, but he presumed that it was Mike Keegan; it was that remark which induced me to investigate in the direction of Keegan in relation to this fraud.



*Question*—Mr. Roberts, I did not ask you how you came to investigate this matter ; I ask you how you came to have your attention directed to that book, and I now repeat the inquiry ?

*Answer*—Mr. Watts was my co-committeeman, and was with me when Mr. Horn made this statement ; Mr. Watts called my attention to the book then.

I saw this book in Mr. Watts' house ; I believe that I saw it there more than once ; all that I know about it is from what I learn from Mr. Watts and from an examination of the book.

(Mr. Stokes here objects to all the testimony of Mr. Roberts in chief, relating to the handwriting of Mr. Michael Keegan, upon the ground that he has no legal knowledge thereof.)

I cannot say what time in the morning the recount in Burlington commenced ; I was not present at the recount at all ; I understood that the recount was going on ; I said that the recount was to me an unheard of thing ; Dr. Pugh told me that the recount was going on, and told me to go up to the City Hall and see that it was done fairly ; this was about half-past nine on the morning after election.

The further taking of depositions was adjourned until Friday, January 8, 1864, at half-past ten o'clock A. M.

JOHN RODGERS, *M. C. C.*

FRIDAY, JANUARY 8, 1864.

Jonathan M. Roberts, cross-examination resumed—All the information I have of the recount at the City Hall on the morning after the election is derived from others ; myself and Mr. Watts and Mr. Rodgers were a committee of the Burlington Union League appointed to examine the tickets and investigate this matter, and to see if any fraud had been committed, and to take such steps as would obtain justice ; we had no special instructions ; we were to use our discretion in whatever we did.

*Question*—Did you construe your powers as sufficient to authorize you to employ counsel, and if so, did you employ counsel ?

(Mr. Lathrop objects to the question, upon the ground that the witness cannot put his construction upon powers, but simply state facts.)

*Answer*—I did not feel that I had any power to act in any other than my individual capacity ; I did pre-employ Mr. Stratton individually, and I presume that he looks to me for his fee ; I wish to explain that I called upon Mr. Stratton in reference to the prosecution of the indictments pending at Mount Holly ; I employed Mr. Stratton on the day upon which the indictments were found against the election officers at the last court at Mount Holly ; the court commenced on the fifteenth of last December ; I had a prior conversation with Mr. Stratton about the legality of the recount by the election officers ; this took place on the sixth of last November, the day upon which the county canvassers met at Mount Holly ; I cannot state precisely the day when I saw Mr.

McDowell and Mr. Lippincott both ; I think it was on a Saturday ; it was sometime after I had had the first interview with Mr. Stratton.

*Question*—Was it in pursuance of advice or directions from Mr. Stratton that you made those calls upon McDowell and Lippincott ?

(Mr. Lathrop objects to the question, because the witness cannot be asked in relation to advice received from his counsel, and because the putting of such a question is unprofessional.)

*Answer*—I was not prompted by advice or instructions from any one ; I was prompted by my own sense of right and duty, and the belief that it was due these parties that they should make their explanation before I made a complaint against them ; I did not make any memorandum of those conversations ; when I and my co-committeemen met at Mr. Lippincott's with the election officers we made a count there, and I made a tally of that count ; each ticket was examined by Mr. Watts ; Dr. Pugh, Mr. Batten, and Mr. McDowell looked over the tickets, and Mr. Larzaleer looked over my tally ; I think these ballots were all strung on two different strings ; during the examination they remained strung ; I saw no ticket taken from the strings ; I kept the tally ; I have the tally list here.

The witness here produces a paper, and says : this is it ; I have made no memorandum of the number of tickets which we found strung ; as the ballots then were, there were five hundred and forty-five votes for Mr. Lathrop ; there were three hundred and seventy-six votes for Mr. Stokes ; the majority for Mr. Lathrop in Burlington, as the ballots were strung that morning, was one hundred and sixty-nine ; it does so appear upon the tally which I have produced, and have in my hand ; I presume that one of the tickets which was counted for Mr. Lathrop at the recount at the City Hall, on the morning after the election, and to which I have referred to, is the one which Mr. Burling referred to as not having been read by Mr. Lippincott, and not counted for either one of the candidates, and over which Mr. Batten hesitated about counting for Lathrop, at the recount at Lippincott's ; this was suggested at the time, and seemed to be assented to by the officers ; I have no recollection of Mr. Lippincott saying at that time that this particular vote was counted for Lathrop on the night of the election, but it was counted at the City Hall, on the morning after the election ; I cannot give the number of that ticket ; it is among the splits on the Democratic string ; I cannot designate, by number or otherwise, the other ticket which was counted for Mr. Lathrop ; they could not explain that ; I did not see anything more of the tickets or ballot box after the count at Mr. Lippincott's, until I saw them at the Grand Jury room ; when I saw the tickets there they were apparently in the same condition on the strings as when I saw them at Mr. Lippincott's ; after seeing them in the Grand Jury room, I did not see them until I saw them yesterday, here in this room ; I do not know anything more about the alterations upon the tally lists, otherwise than appear upon the lists themselves ; I do not know anything more of what the figures on those tally lists import or denote than what appears on their face, or my conjectures from them ; I mean all the figures

on the lists, both those in ink and those in pencil mark ; I was not at Beverly on the night of the election, when the votes were counted or announced, at the close of the election ; I have no personal knowledge of the result of the vote as announced at Beverly that night ; I only know that the vote returned differed from that which was reported here that night ; I mean that the return from Beverly shows *two* votes less majority for Lathrop than was reported here on the night of the election : Mr. Fenimore, the clerk of the election, admitted that there had been a change of two votes at the recount from the vote as announced at the close of the election ; I meant to say that a recount of the votes was an unheard of thing by me until the time of my conversation with Dr. Pugh, the morning after election ; I have heard of judicial recounts made by order of the court in Pennsylvania, but never heard of such a recount as this one ; I resided in this town last spring a year ; I had not heard of a recount at the Mayor's election, when Hollenbach and Powell were candidates, until after this last election ; I took an active part at the last election ; I was one of the Poll Committee.

Examination in chief resumed—I have stated that Mr. Rodgers was a co-committeeman with Mr. Watts and myself ; he has not taken any active part with us, further than that we have advised him of our movements ; I have spoken of one ticket which was counted for Mr. Lathrop the next morning not being counted for him the night of the election, and which the election officers could not explain ; I explained that in this way : while counting the Union split tickets, on the night of the election, out of the hat, a Union solid ticket, printed, was found among them, which was tallied among the Union solid tickets, but it was strung among the Union split tickets ; when they recounted the next morning, it was counted among the Union split tickets, and was so tallied on the Union tally list, but not carried out in their footing, as it appears on the tally list ; this was my explanation to Mr. McDowell, and he assented to it ; my information in relation to the recount the morning after election was received mainly from the election officers themselves, and in part from others.

(Exhibit B, on the part of the respondent, being tally list made by the above witness, and referred to in his testimony offered by the respondent, and marked by me at this time.)

The figures on the lower right hand corner, around which the pencil line is drawn, are copies of the figures on the lower right hand corner of Exhibit C, on the part of the contestant, made by me from recollection, on the same day that the tally list was made.

J. M. ROBERTS..

Affirmed and subscribed before me, January 8, 1864.

JOHN RODGERS, *M. C. C.*

James Watts, a witness produced on the part of the contestant, being sworn, says : I reside in Burlington ; I have resided here over twenty-



eight years; I am a gas fitter; I voted at the last general election in the township of Burlington, on the third day of last November; by reason of frauds alleged to have been committed in the return of the election, Mr. Roberts, Mr. Rodgers and myself were appointed a committee by the Union League to investigate the matter.

Exhibit C, on the part of the contestant, being shown to the witness, he says: I have seen this paper before; I think I saw it first on the night of the fourteenth of November, at Benjamin F. Lippincott's house, the Saturday week following the election, I think; Mr. Jonathan M. Roberts, Dr. J. Howard Pugh, Mr. James R. Batten and Mr. Benjamin F. Lippincott and myself were present; Mr. Batten produced this paper; he took it from the ballot box; Mr. Lippincott had the ballot box at his house; Mr. Batten had the keys; he (Batten) unlocked the box; the figures in pencil mark on the right hand lower corner of this paper were on it when it was taken from the ballot box; the attention of Mr. Batten and Mr. Lippincott was called to these figures; immediately after discovering these figures I called Mr. Roberts' attention to them quietly; a conversation arose among all of us in reference to the increase of the aggregate vote between Tuesday night and Wednesday morning; I mean the Assembly vote; neither Mr. Batten nor Mr. Lippincott seemed to recollect what was the aggregate vote on Tuesday night; their attention was then called to these figures to show what the aggregate vote was; I do not recollect whether I called their attention to them or Mr. Roberts; I did call their attention to the number 547 for Mr. Lathrop, and the number 372 for Mr. Stokes, which, being added together, would give the aggregate vote counted for members of the Assembly on the night of the election, saying that some person had placed them there, and had substracted the one from the other, which showed the majority for Mr. Lathrop to be one hundred and seventy-five; I asked them who put those figures there; Mr. Batten replied, "I did not—they are not my figures;" I replied, "they are not—I have your figures here before me;" Mr. Lippincott observed that he did not put them there, neither were they on the tally list when he announced the result of the election on the night of the election, and I think (but am not positive) that he said, "When I put the papers in the ballot box;" I remarked then that "the figures had been placed there by some one between the time when you put the papers in and this particular time," meaning the Saturday night referred to; the remark seemed to be assented to by all who were there; I had a conversation with Mr. William Larzaleer, one of the judges of the election, at his brother's store, in the presence of his brother and a man named Michael White; Mr. White started the conversation; it was in reference to the difficulties existing here in relation to the candidates for Assembly, but not about this tally list; the figures in pencil on the right hand lower corner on this tally list (547) correspond with the votes announced for Mr. Lathrop on the night of the election; the figures 372 correspond with the number of votes announced for Mr. Stokes in this township; the figures 175 correspond with the majority announced for Mr. Lathrop that



night; the figures 155 correspond with the reported majority for Mr. Stokes in Cinnaminson; the figures 28 correspond with the reported majority for Mr. Stokes in Springfield; the figures 183 correspond with the aggregate of the majorities as reported for Mr. Stokes; the figures 175 correspond with the reported majority for Mr. Lathrop in Burlington; the figure 4 corresponds with the reported majority in Willingborough for Mr. Lathrop; the figures 11 correspond with the reported majority for Mr. Lathrop in Beverly; the figures 190 correspond with the aggregate majorities reported for Mr. Lathrop in the district; the townships which I have named comprise the Second Assembly District in this county; I believe these figures in lead pencil on the tally list are in the handwriting of Michael Keegan; he resides in Burlington; he is a prominent and active member of the Democratic party.

The string of tickets headed "Union Ticket" was here taken from the ballot box by me, and the tickets thereon numbered respectively 509 and 511 being shown to the witness, he says: The name "J. Stokes," on ticket 509, I believe to be in the handwriting of Michael Keegan; the name "Jarrett Stokes," on ticket 511, I believe to be in the handwriting of Michael Keegan; I am acquainted with his handwriting; at the time Mr. White started the conversation referred to a few moments since, I observed to those present that I would like to have an intelligent explanation of the change between the vote as announced on the night of the election and as it was reported the next day; Mr. William Larzaleer stated that upon a recount they found three Union tickets which had Mr. Stokes' name pasted over Mr. Lathrop's, which they counted for Mr. Stokes in the recount; I asked him if there was anything else; he said that he did not know that there was; I said then, "I suppose that these three tickets had been counted for Mr. Lathrop on Tuesday night which you counted for Mr. Stokes on Wednesday morning; I told him that that would not produce the change—that, if he recollected, the vote announced for Mr. Lathrop on Tuesday night was five hundred and forty-seven and that they had officially returned it as five hundred and forty-six, and that Mr. Stokes' vote, as announced on Tuesday night, was three hundred and seventy-two, but, as officially returned, it was three hundred and seventy-seven, and that if they took the three votes off from Mr. Lathrop it would have left him five hundred and forty-four, and giving them to Mr. Stokes would have increased his vote to three hundred and seventy-five; I then drew the figures off on paper and handed them to Mr. Larzaleer, and he asked me if that was so, and I told him that it was so; he then said that he could not account for the increase of the aggregate vote; the figures which I made were looked at by Mr. Alexander Larzaleer and Mr. White both; I had a conversation with Mr. William Larzaleer as to the whereabouts of the ballot box between the close of the count on Tuesday night and the recount the next morning; he stated that when he left Higbee's hotel he met Israel Stokes, and inquired of him where Jarrett was; Israel said that he was down town; he said he went down to Kinsey's hotel, and saw the ballot box sitting on a table as he went in, and what became of it after

that he could not tell ; he did not see it afterwards ; he could not recollect how long he saw it on the table ; I think it was about eleven o'clock when he and I separated ; I went with Mr. Jonathan M. Roberts and Dr. Pugh, on a Monday morning, to Mr. Lippincott's, to make an examination of the ballot box, Dr. Pugh and myself ; Mr. Batten was sitting alongside of us ; examined the tickets ; Mr. Roberts kept the tally list ; as we ran over the tickets we found three tickets with Mr. Stokes' name pasted on ; those tickets numbered 35, 185, and 385, were the tickets identified by Mr. Roberts yesterday ; we found in footing up the list for Mr. Lathrop, that there was one vote less than had been reported to the Board of County Canvassers officially ; on examination of the Democratic tickets, we found one ticket with the name of Levi French for Assembly, which had been counted for Mr. Stokes ; we also found ten tickets which had been voted for Reading Frake for coroner ; these were not counted for Mr. Frake—they were counted as solid Democratic tickets ; the officers stated, as a reason, that they did not consider Frake a regular candidate ; upon footing up the vote for Mr. Stokes, we found one vote less than had been returned for him officially, that is, they returned one more vote for Mr. Stokes than the count showed that he was entitled to ; by comparison of the whole number of tickets that we examined with the poll list, the votes strung fell one short of the number on the poll list ; we then examined the rejected tickets, to learn where the deficiency was ; the number of rejected tickets as strung did not make it up ; I asked Mr. Batten then what had become of the notice which was said to have been voted by Mr. Charles Lippincott ; he told me that it was in the ballot box, and went and got it ; I asked him why he did not number that and string it, as well as the rest ; he told me that it was no ballot ; I told him that it was necessary that it represented a name on the poll list ; he then numbered it and strung it on that day, among the rejected ballots ; I do not remember the number of rejected ballots ; I kept no figures at all ; Mr. Roberts kept the figures ; the next conversation which ensued at this time was in relation to the increase of the aggregate vote for Assembly, and the conclusion was that two of the tickets found among the Union splits with Jarrett Stokes' name written upon them, and one Democratic ticket which had Mr. Lathrop's name written upon, and a Union ticket which had been counted twice as a solid ticket and as a split ticket, made up the increase of four votes ; I saw Michael Keegan on the morning after the election, about ten o'clock, I think ; I saw him and Thomas M. Richardson in Broad street ; they were driving down the street, in the direction leading to Beverly ; Mr. Lippincott gave as a reason why the figures in pencil on the tally list could not have been there when the vote was announced on the night of the election, that the returns from Springfield had not been received at that time, and they could not have been then known, and they did not come in for nearly an hour afterwards.

(Mr. Stokes objected to all of the testimony of Mr. Watts in chief, of conversations between him, or in his hearing, with the election officers and other persons, and the cross-examination subject to like objections on the part of Mr. Lathrop.)

Being cross-examined, says: I think that there were no other persons present at Mr. Lippincott's house on the Saturday week next following the election, besides those I have named; Mr. Roberts and myself had fixed on that day to call upon Mr. Batten to examine the tickets; the box was at Mr. Lippincott's, and in going down there we met Dr. Pugh, and invited him to go with us; we did not make any recount of the ballot at that time; our examination was confined to the tally list, and Dr. Pugh took a copy of it; we made an arrangement then to meet there on the following Monday, and it was in pursuance of that arrangement that we met there on the following Monday; it was at the suggestion of Mr. Lippincott; I have seen Michael Keegan write, on the occasion of his keeping the cash book in a lodge to which I belong, and which cash book I have now in my possession, in which there are several pages of his handwriting; I have seen him write in that book frequently; I can produce that book; I recollect of none others present when I had the conversation with William Larzaleer, at his brother's store, besides Alexander Larzaleer and Mr. Michael White; during the whole conversation about the matter, William Larzaleer was there; this conversation took place before the count at Lippincott's house; it was before the Saturday that we examined the tally lists; the meeting at Larzaleer's store was casual, except that I told Mr. John Roberts, a short time before, that I would stop and see William Larzaleer, at his brother's store; I did not keep the paper upon which I made the figures at Larzaleer's store, as stated in my examination in chief; I do not know whether either of the Larzaleers or White kept the memorandum then made; I do not recollect that Mr. White took a copy of those figures; I made those figures from recollection; of the conversation I had with Mr. William Larzaleer, as to the ballot box, I cannot fix the date; it was, however, before the prosecution was commenced; it was after the interview at Lippincott's house; the conversation about the ballot box was at Larzaleer's store; I think that Alexander Larzaleer was in the back store, and that he came into the front store, but not near us; we were at the front part of the counter; he would not have been nearer to us than ten or twelve feet; I have no recollection of his being nearer than that; I had no conversation with Alexander Larzaleer on that occasion; I inferred from the conversation with William Larzaleer, about the ballot box being on the table, that he remained in the bar-room; I do not recollect being at Beldin's hotel on the night of election, with William Larzaleer; I do not know that I would have recollected being at Higbee's with him, if he had not called my attention to it; I did not come from the City Hall to Beldin's, late on the night of election, with William Larzaleer, and take a drink with him; I do not recollect seeing William Larzaleer at Beldin's on the night of election; the house, however, was full;



I do not recollect that Mr. Larzaleer said anything about going to Kelly's that night; I made no memorandum of these conversations.

The notice referred to in the examination in chief being taken by me from the ballot box, and shown to the witness, the witness says: This is not numbered; I think the rejected ballots were numbered.

The rejected ballots were then taken from the ballot box by me, and shown to the witness. He says: I see that they are not numbered, and I must have been mistaken; I think the notice voted had not been marked at that time "rejected," and the clerk marked it rejected so as to correspond with the rejected ballots; in speaking of the number of tickets as compared with the poll list, by taking the number of tickets which were strung and counted, together with the rejected ballots, the whole number fell short one of the number of names on the poll list; that one was made up by Mr. Batten going to the ballot box and taking out the notice referred to as voted by Charles Lippincott, and marking it "rejected;" I think the double ballots were wrapped together with a string, and this attached to the string of the ballots; when I speak of the conclusion arrived at about the increase of the aggregate vote for members of Assembly, at the recount at the City Hall, it was the concurrence of the whole party at Mr. Lippincott's, the committeemen as well as officers of the election.

I cannot fix the time when I saw Keegan and Richardson riding down Broad street, more definitely than as I have stated in my examination in chief; they were in a light, one-seated wagon; they were then passing the Mechanics' Bank; I was standing on the porch at Beldin's; I think I observed them for fifty yards below the bank; that street branches off towards the river, and also to the mill; that is the direction towards Beverly and elsewhere; I specified Beverly because I was asked the question; I am sure that it was before twelve o'clock when I saw Keegan and Richardson riding down Broad street; I was one of the challenging committee of the Union League on the day of election.

Examined in chief resumed—Mr. John Rodgers, the Master, was not with us at either of the times we were at Mr. Lippincott's house.

JAMES WATTS.

Sworn and subscribed before me, January 8, 1864.

JOHN RODGERS, *M. C. C.*

Clayton Conrow, a witness produced on the part of the contestant, alleging himself to be conscientiously scrupulous of taking an oath, and being duly affirmed, says: I live in Cinnaminson township; I was the clerk of that township, and acted as such on the day of the last election; the votes were counted immediately



after the polls closed in the evening; the result of the election was announced as soon as the votes were counted and the result ascertained; the officers of the election made out and signed the statement of the result of the election that evening; there was no recount in our township.

*Question*—Was there anything said the next day about a recount, or about looking over the tickets?

(Mr. Stokes objects to the question because it does not come within the terms of notice, and because it is not relevant to the subject matter.)

*Answer*—William R. Lippincott came to my place, and said it was a very close vote in the district for members of Assembly; he wanted to know whether we had made any mistake the night before; he and I together looked over the tickets; we found one which had been credited to Charles C. Lathrop which was written *Lathrop*; he supposed that that had not been noticed the night before; it did not change the result of the election; he supposed that it was the intention of the voter to vote for Charles C. Lathrop; Mr. Lippincott was not an officer of the election; I did not see any one from Burlington there; this was about seven o'clock in the morning; I made a note of the vote spoken of on the return sent to the Board of County Canvassers; Wallace Lippincott and Samuel R. Hunter came to my place to inquire about the two irregular votes, the one referred to, and the other voted "C. C. Lathrop;" Hunter was the judge of the election; the box was not opened then; they proposed to make a new statement, and throw one of the votes out; Wallace Lippincott made the proposition in Hunter's presence; I declined to do it.

(Mr. Stokes objects to the whole testimony as being irrelevant and illegal.)

CLAYTON CONROW

Affirmed and subscribed before me, January 8, 1864.

JOHN RODGERS, *M. C. C.*

At this time, the further taking of depositions was adjourned until 10 o'clock on Monday morning, January 11.

JOHN RODGERS, *M. C. C.*

MONDAY, JANUARY 11, 1864.

Parties present as before.

William H. Stiles, a witness produced on the part of the contestant, being duly sworn, says: I reside in Burlington; I resided in this city on the third of November last; I was a voter, and voted at the election held in that township on that day; I was present in the City Hall on Wednesday, the fourth of November,

when the ballot box was opened, and a recount said to have been made; Mr. Benjamin Lippincott, Hamilton McDowell, William Larzaleer, Jas. Russell Batten, (they were the election officers), Daniel P. Naylor, Michael Rugans, Edward Toy, Anthony Smith, James W. Wall, and myself; there were several others, but these are all I recollect; they commenced the recount some time between nine o'clock and twelve o'clock; I counted the Democratic tickets, or helped Mr. Larzaleer to count them; we counted the solids first; then, when we saw that the solids were correct, as near as we could, we counted the splits; we did not count anything but the vote for Assembly; we counted part of the vote for coroners, and then let them go, as they were not of much importance; I said Michael Keegan was there; all hands had something to say, in one way or another; he offered to bet, but how I cannot say for certain; he was a friend and supporter of Mr. Stokes, I expect; I believe this offer to bet was made while the recount was going on, and before it was finished; I cannot say whether Keegan left the City Hall before the count was through or not; I did not see him there when I left; I stayed until they said they were done with the recount.

Being cross-examined, he says: In counting the tickets we did not take them off the string; Larzaleer held the string of tickets in his hand, and I looked over while he counted; we began, as near as I can remember, at the bottom, with *number one*; we did not keep a tally on the solids; when a ticket was examined, Larzaleer and I would run over the names; some of them he would read, others not; the ticket was spread out to see whether it was solid or not; some of them were not observed closely, as there was some excitement there; the main object was to discover whether all the tickets which were on the Democratic string as solids were so, and to see that no split ones came through by mistake, such as pasted ones, or marked with ink; when, upon examining the face of each ticket, and we both found it to be solid, we would pass on to the next; we aimed to go over them carefully and accurately; this was the object; I do not think we went over the solids more than once; we may have gone over them twice, but I am not certain; I went over the splits once with Mr. McDowell, and both the solids and splits with Mr. Lippincott, both Republican and Democratic; I did not find any splits on that occasion, in the Democratic solids; I did not see any ticket among the Democratic solids with Levi French's name upon it; they tell me there was one, but I did not see it; this examination was made in broad day; after going over the Democratic solids, we next took up the Democratic splits; in counting them, a tally was kept by me; I had it, but I believe I have lost it; I had it at Mount Holly with me; I have not made any search for it to-day; we found error in the Democratic splits in the count of the previous

night; I think we reduced Mr. Stokes' vote *one*, and raised Mr. Lathrop's *one*; I do not remember how the error was made; I did not pay close enough attention for that; my tally, if I could find it, would show the exact count that morning; it has not been in any wise altered since; the last I remember seeing it was at Mount Holly; I think Mr. Larzaleer and myself went over the Democratic splits three times; I am positive that we reduced Stokes' vote one, and raised Lathrop's one; I cannot say about any more; at the time I was satisfied that the count which Mr. Larzaleer and myself made was correct; having counted the Democratic vote, I did not aid in counting the Union vote; Mr. McDowell and Mr. Naylor counted the Union vote; I cannot say whether that vote was gone over in the same way as we had done with the Democratic vote; that count was going on at the same time we were engaged in counting; Mr. Lippincott and Mr. Batten were in the room while the counts were going on; it was somewhere near twelve o'clock when we got through; the exact time I cannot say; there may have been more than eight or nine persons there; I have a margin of the estimate, including the election officers; I went there out of curiosity; I had never seen a recount, so I thought that I would go up; I was not present the night before, when it was announced that there would be a recount there the next morning.

(Mr. Lathrop objects to the question and answer just made and given, because there has been no evidence that any such announcement was made.)

It has always been the custom to recount the next day, and I asked the question the next morning; in that way I ascertained that the recount was going on; I got there before the recount had commenced; after Mr. Lippincott had asked several others to participate in the recount, and they had refused, he then asked me; that is the way I came to participate in it; he asked them without regard to party at first; I can name one to a certainty, Edward Toy; the others who were asked I forget; Mr. Toy is a Republican; I am a Republican; I would not like to state for a certainty how many persons were at the City Hall when I got there; there were several, however; Mr. Lippincott had not got there with the box when I got there; whether the other election officers were there or not I cannot say; I cannot say when I first heard of the Levi French ticket; it was several days ago, though; I recollect seeing Joseph L. Wright and Jonathan Knight there; Mr. Wright was there at first; how long he stayed I cannot say.

Examination in chief resumed—In recounting the Democratic solid tickets, neither Mr. Larzaleer or myself discovered any mistakes; all the mistakes in solid tickets were in the Union solids; I heard that there was some misunderstanding or difference about the report of the evening before, before I went to the City Hall,



as to who was elected; I cannot say whether I heard, the next morning, that Mr. Stokes was elected; I was never present at a recount before, that I can remember; it has always been the custom in this township, as near as I can recollect, to have a recount the next morning after a State or county election, but I was never present at a recount before; I think a recount took place at the time Mr. Lamb run for Assembly; I would not like to say about any others, because I have not paid much attention to elections.

Cross-examination resumed—I heard on the night of election that Mr. Lathrop was elected, and on the next morning I heard that there was some misunderstanding, and they said that Mr. Stokes was elected; I cannot remember the misunderstanding; it was only a rumor; I did not pay much attention to it.

*Question*—Was it not that the votes from Beverly and Cinnaminson were different from what they had been reported the night before?

*Answer*—I cannot say.

WILLIAM H. STILES.

Sworn and subscribed before me, January 11, 1864.

JOHN RODGERS, *M. C. C.*

Daniel P. Naylor, a witness produced on the part of the contestant, being duly sworn, says: I resided in the city of Burlington on the third and fourth days of November last, and reside here now; I was a voter and voted at the election held on the third of last November; I was present at the City Hall on the morning of Wednesday, the next day after election, when the recount is said to have been made; Michael W. Keegan was present; I heard him offering to bet on the result of the election; to the best of my recollection he offered to bet that Mr. Stokes was elected to the Assembly from this District; this was before or immediately at the commencement of the recount; at the time he offered this bet, the majorities, as reported, to my understanding, showed that Mr. Lathrop was elected; I do not remember how long Mr. Keegan remained there; I assisted in making an examination of these tickets; by the request of Mr. Lippincott and Mr. McDowell, I sat by the side of Mr. McDowell while he re-counted the Union or Republican tickets; he commenced first to count the solid Republican tickets, and in counting them we found three tickets which had been counted the evening before as solid Union tickets with the name of Mr. Stokes printed on separate slips of paper pasted over that of Mr. Lathrop; I do not recollect the numbers of the tickets exactly; these alterations were perfectly apparent upon the face of the tickets, because the name of Mr. Stokes was printed in larger letters, and wider spaces between the letters than that of Mr. Lathrop.



*Question*—Would or would not that alteration strike any one immediately upon taking up the tickets to examine them?

(Mr. Stokes objects to the question as a leading one.)

*Answer*—I think it would, from the fact of the difference in the printing, and also that Mr. Stokes' name appeared darker, from the fact of its being pasted or gummed, than the face of the ticket.

*Question*—In the exercise of ordinary care, would an election judge be likely to count those as solid tickets in counting the vote?

(Mr. Stokes objects.)

*Answer*—I think not.

When these tickets were found, nothing more was said than that mistakes would occur, and I assented to it; there was some general common place expression of surprise; according to my recollection, this recount began somewhere near ten o'clock, not much before, nor much after; it took somewhere in the neighborhood of two hours; I was there about two hours; the tally-lists were taken out of the box.

Being cross-examined, says: Mr. McDowell held the string of tickets in his hand; the tickets were counted on the string, beginning with number one, and so continuing; I do not think the names were called, the ticket was exposed, Mr. McDowell and I looked at it, if we were satisfied that it was a solid ticket we went on; in the first place, the back of the ticket was towards me, I paid attention to see that it was numbered correctly, then Mr. McDowell turned the face of the tickets so that I could see them, and it was in that way that the examination proceeded; we found three tickets, and only three, in which the name of Mr. Stokes had been pasted over that of Mr. Lathrop among the solids; we did not pass over one of these pasted tickets without seeing it, I am quite sure of that; I do not think I went over the solids more than once, I have no distinct remembrance, we may or may not have done so.

The ballot box of the township of Burlington was here opened by me, at the request of Mr. Stokes, and the ballots marked "Union," on a string, taken therefrom by me. The ticket number thirty-five being shown to the witness, he says—That appears to be one of the pasted tickets to which I have referred; the name of Jarrett Stokes on that ticket appeared to be darker than the name of Charles C. Lathrop on ticket number thirty-six, because my impression was that it had been pasted or gummed, and had not become perfectly dry; my impression that morning was that it was one of these gummed slips which are sometimes used, from the fact that I had some in my possession, with the name of Mr. Hancock, the candidate for County Clerk; I cannot say what my impression is now, because I have not seen any of them since they have become dry; the appearance of the ticket now is different from what it was then, so far as relates to the color; I make the

same observation in reference to tickets number one hundred and eighty-five and number three hundred and eighty-five; I do not remember that anything was said that morning about these slips not being dry; when these tickets were discovered they were not examined critically, that I recollect; I do not remember that there was any one at the desk but Mr. McDowell and myself; I have never stated to any one before, that these slips appeared to be damp, I have not said that they appeared to be damp, they may or may not have been damp, if they had been damp they would have had the appearance that I have described; it occurred to me that the name of Jarrett Stokes on these tickets was darker than the rest of the ticket, when I first saw them at the recount; at that time I did not state to any one that they were darker, I have since, I have stated so to several persons, to persons who work with me in the same place where I work, and I had occasion to state so before the Grand Jury; I have so stated to William Naylor, my father, to William Phillips, Sen., William H. Stiles, to James Harris, to Thomas Schuyler, and perhaps nearly all my acquaintance; I made it a matter of general talk, I had no hesitation in speaking of it; I also assisted in counting the Union splits to some extent; I have no particular recollection about the manner of counting the splits; I believe that Mr. Batten kept a general tally; I commenced with a tally but did not get through with it, there was so much confusion there; I cannot say whether we found any mistakes or corrections in the splits or not; I had the solids under my particular charge; I do not remember whether I was the only one asked by Mr. McDowell or Mr. Lippincott to assist in the recount; my impression is that Mr. Lippincott had not arrived when I got there; I saw the ballot box opened and the tickets taken out previously to the recount being commenced, I cannot say with certainty by whom it was unlocked; I saw Michael Keegan at the City Hall when we went there on Wednesday morning to make the recount; he was inside the railing where the common council sit; this was perhaps half an hour before the recount; I heard him make the offer to bet, either immediately before or immediately after the recount commenced; I cannot say how long he remained.

Examination in chief resumed.—The recount took place in the council chamber, and not the room in which the election was held the day afore; I had heard that Mr. Stokes was elected before I went to the City Hall that morning; the tally lists which were taken out of the box, were lying at my side during the most of the time.

DANIEL P. NAYLOR.

Sworn and subscribed this 11th of January, 1864, before me,  
JOHN RODGERS, *M. C. C.*

Joseph P. Deacon, a witness produced upon the part of the contestant, alleging himself to be conscientiously scrupulous of taking an oath, and being duly affirmed, said: I reside in Burlington; I have lived here sixty years and over; I am the station clerk of the Camden and Amboy Railroad Company; I was a freeholder from this township in the Board of Chosen Freeholders the year before this last; I ran upon the Democratic ticket when I was elected; I saw the ballot box of the township of Burlington on the night of the third of November last, after the election was over; I cannot tell the precise time; I suppose that it was about ten o'clock; it was after the votes had been counted and the result of the election announced; the box was in the possession of Benjamin F. Lippincott, one of the judges of the election, when I first saw it; this was at the door of the ticket office of the Burlington station, a part of Beldin's hotel building; Mr. Lippincott gave the ballot box into my possession; he said that he wished me to take the box and lock it up until morning; I took it; I did not lock it up, though; put it inside a closet there was in the ticket office; I left it there when I went home; I did not see it again in the place where I left it; the box was not there when I came back in the morning, some time between six and half-past six o'clock; I do not know, of my own knowledge, who took that box away; no one applied to me for permission to remove it; whoever took it away, took it away without my consent or knowledge.

Being cross-examined, says: I put the box in a closet inside the ticket office; no person was with Mr. Lippincott that I remember when he left the box with me; the closet in which I put the box was not locked; Mr. Rodgers here, William Henry Sherwood, David Harmer, and one or two others whom I do not remember, were in the office when the box was handed to me; they could all see where I put it; it was somewhere near ten o'clock; I left there somewhere near eleven o'clock, I think before that hour, I am not certain; I left Mr. Rodgers, David Harmer, W. H. Sherwood and Charles Schermerhorn in the office; I did not lock the office; Mr. Schermerhorn is the operator, and has as much charge of the office as I have; I did not return that night, nor until between six and half-past six o'clock the next morning; I know who took the box, from persons who saw it taken away; Mr. Schermerhorn, the operator, told me that Mr. Lippincott, the judge, took it; he told me so the next morning; I think he said Mr. Lippincott came into the office and took it; no one broke into it or kicked up any bobby in it while I was there; Benjamin Lippincott has been the judge of election on previous occasions; I do not recollect his leaving the box with me after previous elections; he might have done so, but I do not recollect it; I never was a Democrat or Republican.



Examination in chief resumed—Mr. Schermerhorn did not tell me *when* the box was taken away.

JOS. P. DEACON.

Affirmed and subscribed before me, January 11, 1864.

JOHN RODGERS, *M. C. C.*

David Harmer, a witness produced on the part of the contestant, being duly sworn, says: I reside in Burlington; have resided here twenty-four years; I am a painter and glazier; I was in the ticket office when Mr. Lippincott brought the ballot box of the township of Burlington, and left it with Mr. Deacon, on the night of the election; I heard Mr. Lippincott request Mr. Deacon to keep it until morning; I remained there after Mr. Deacon left; I saw the box taken away, about a quarter of an hour or twenty minutes past eleven o'clock, by Benjamin F. Lippincott; I did not see any one with him; I saw him come to the door and demand the box; it was given to him, and he took it away with him.

Cross-examined—He came to the door and asked Mr. Schermerhorn, who had charge of the office, for the box; it was after the news from Springfield had come in; he just came and said, "I want that box;" I am under the impression that when he gave the box to Mr. Deacon he said, "I want you to take this box, lock it up, and keep it until to-morrow morning;" that is what I recollect he said; I think the operator handed him the box.

Examination in chief resumed—When Mr. Lippincott came to the ticket office and got the box, all the reported majorities from the townships in the Second Assembly District were in; by those reported returns Charles C. Lathrop was elected to the Legislature by four majority.

Cross-examination resumed—I recollect that when Mr. Lippincott took the box away, the remark was made that it looked very suspicious, and that the box should be watched; I think it very likely that I made the remark, and it was assented to by those in the office.

DAVID HARMER.

Sworn and subscribed before me, January 11, 1864.

JOHN RODGERS, *M. C. C.*

George Horn, a witness produced on the part of the contestant, being duly sworn, says—I live in Burlington; I lived here nearly fifty years; I am a wharf builder; I was at Kinsey's Hotel, in Burlington, on the night of the third of November; this hotel is on the corner of Delaware and Main streets, on the right hand as you go down to the river; it is about four squares from the City Hall, where the election was held on that day; I saw Benjamin F.



Lippincott at that hotel on that night, after the polls had closed and they were done counting off; I also saw Hamilton McDowell there; also William Larzaleer; I did not see James R. Batten in the hotel; I did not see Michael Keegan in the hotel, I saw him outside; I saw the ballot box of Burlington township at Kinsey's Hotel that evening, I saw it when it was brought in, Benjamin F. Lippincott, the judge of the election, brought it in, Hamilton McDowell was with him; this was, I think, a little after eleven o'clock, I am not positive as to the time; the ballot box was thrown on the table there, by Lippincott; this table was right in front of the bar, in the bar-room; I did not stay in the bar-room long after that; when I went out the box was still on the table.

*Question*—Before leaving the bar-room, did you hear Mr. William Larzaleer say anything about the election, and if so, what was it?

(Mr. Stokes objects.)

*Answer*—Mr. William Larzaleer, our collector, came in five or ten minutes after Mr. Lippincott and Mr. McDowell had come in with the ballot box; the words he uttered in that bar-room put me on my guard a little more perhaps than I would have been had I not heard that language; when Mr. Larzaleer came in, he clinched Mr. George Wetherill by the hand, and said, "I'll be God damned if Jarrett Stokes shan't be elected;" I do not recollect of any reply being made in the bar-room; I do not recollect of Mr. Larzaleer saying anything else; I left the bar-room very soon after; after I came out the bar-room I went over to Kelley's shed, behind a tree; the moon was shining very bright; this was morning; I saw two gentlemen walking down Delaware street; they walked down some two or three times, that is from Kelly's corner; they once walked down on the Camden and Amboy Company's wharf; they came back from the company's wharf to Kelly's corner; Mr. Batten walked around Kelly's shed and came within ten feet of me, crossed over Main street, and went up to Kinsey's corner; I distinctly recognized Mr. Batten; the two gentlemen I saw after that coming out of Kinsey's were Mr. McDowell and Mr. Larzaleer, the assessor and collector; they came out there and stood a few minutes; Mr. McDowell said to Mr. Larzaleer, while they were standing there, "Mike can fix all that right, he can do it better than we can;" then they started up Main street; as they got where I was, Mr. McDowell said to Mr. Larzaleer, "can your wife hear you come in?" I did not distinctly hear the answer; they both turned up Pearl street together; Mr. Keegan I saw with Mr. Batten; they are the men whom I saw walking up and down Delaware street; I did not see them go into the hotel together; I did not see the ballot box brought out of the hotel that night.

Cross-examined.—I shall be forty-three years old next June; I

have lived here all my life; I was born here; Mr. Lippincott lives in Pearl street, between Main street and Stacy street, about half a square from Kinsey's hotel, he lives about a hundred yards from Main street in Pearl; in going from Beldin's hotel to his house, Mr. Lippincott would go within about forty yards of Kinsey's hotel; I have been building wharf for the Mount Holly Company all summer; on the day of election I was about all day; I went and deposited my vote; I was there when the votes were counted; I was an old line Whig, and voted for the Republican party last fall; when I went to Kinsey's hotel I told him that the majority was 175; when Mr. Lippincott and Mr. McDowell came in, Kinsey asked what the majority was of Mr. McDowell; he replied, "175—we are beat bad."

*Question*—I repeat the question—How do you fix the hour when you saw the ballot box brought in there?

*Answer*—I don't think it was much after eleven o'clock; I will state that it was a quarter past eleven o'clock; it was about a quarter before three o'clock when I got home; I was out around the corner there from the time when I left the hotel until I went home; I was in front of the hotel in Main street; I thought that it was my duty to travel after that ballot box, if I could keep up with it; I went out of the house to see when the ballot box was brought out, but I did not see it brought out, though I watched three long hours; Kelly's shed is about forty yards from Kinsey's bar-room door; it is across Main street, and across Delaware street, it may be eighty yards; I did not go under the shed; I was behind a tree down by the shed; I was about fifteen minutes behind the tree; I was there when I saw the gentlemen walking up and down Delaware street; my only business that kept me out that night was to watch the ballot box; my position at the tree, by the shed, and around that corner, did not command any other entrance of the hotel except the front door; if I had remained in the bar-room, I could have seen the ballot box go out the front door; I did not go back to the bar-room door and peep in occasionally; the table is a small one, or stand, and is upon the opposite side of the bar-room from the bar; that is the only place where I saw the ballot box, except at the City Hall; I am certain that it was McDowell and Larzaleer that I saw there; I was not upon the opposite side of the street; I was down in Mr. Mitchell's stairway, where steps go down to a former oyster cellar; I was from fifteen to twenty yards off from them when I saw them; I am not a candidate for the office of carrying the mail to Bristol; I think that the moon was shining very bright; I was all alone trying to keep watch.

Examination in chief resumed.—I was near enough to these gentlemen to recognize them.

GEORGE HORN.

Sworn and subscribed before me this 11th day of January, 1864.

JOHN RODGERS, M. C. C.

J. Howard Pugh, a witness produced on the part of the contestant, alleging himself to be conscientiously scrupulous of taking an oath, and being duly affirmed, says: I am a practising physician residing in this city; I have resided here about ten years; I know Hamilton McDowell, who was one of the judges of the last county election.

*Question*—Have you had any conversation with him in relation to the whereabouts of the ballot box on the night of the last election, between the time of counting the votes and the recount the next morning?

(Mr. Stokes objects.)

*Answer*—I have; some days after the election, in his store; he told me that he accompanied Mr. Lippincott with the ballot box down Main street, on the night of the election, to one of the hotels, I think Mr. Kinsey's; he said that Lippincott took it in, placed it on a table or counter, I don't know which; that they all took a glass together; that the box remained there a little while; I supposed while they were drinking; that Mr. Lippincott then took it, and put it into a cupboard or closet, or some private place, that was the idea; that it was left there for some hours, and that Mr. Lippincott took it home; he did not say whether he accompanied Mr. Lippincott home or not; he said that the box was taken home by Mr. Lippincott somewhere towards morning.

J. HOWARD PUGH.

Affirmed and subscribed this 11th day of January, 1864, before me.

JOHN RODGERS, *M. C. C.*

Joseph L. Wright, a witness produced on the part of the contestant, being duly sworn, says: I reside in Burlington, and am Marshal of the city now; I received a telegraphic despatch the day after the last election; Keegan's name was not to it, but I suppose it came from him; it came from Beverly; I think I received it about two o'clock; I have not now got the despatch; as near as I can recollect, the words of the despatch were these: "Beverly, nine;" I think that was all the despatch contained; such is my impression at this time; Mr. Richardson and Mr. Keegan left here about twelve o'clock; I saw them leave Higbee's hotel; I saw them going up Broad street, not down; I supposed they were going below.

JOSEPH L. WRIGHT.

Sworn and subscribed January 11th, 1864, before me.

JOHN RODGERS, *M. C. C.*

Recompense H. Ross, a witness produced on the part of the contestant, alleging himself to be conscientiously scrupulous of



taking an oath, and being duly affirmed, said: I live in Union street, Burlington; I know Isaac T. Price; he lives in Trenton, I believe; he voted at the election held here on the third of November last; he was living in Trenton then; I cannot speak positively of his politics; as far as I know, he has always voted with the Democratic party.

Cross-examined—I have never been at his place of residence in Trenton.

*Question*—How do you know he lives in Trenton?

*Answer*—The gentleman by whom he is employed is A. G. English; Mr. English came to me for information in regard to Price before he employed him; Mr. Price lived opposite me in Burlington; he moved away somewhere in the fore part of October last; he told me that he had hired to Mr. English, and was going to move to Trenton; his goods went away, but where to I cannot say; I think they went by the Edwin Forrest; I was so informed; Mr. Price represents the business of Mr. English at my place to sell me butter; he was there last Friday; all that I know about Mr. Price's residence is from what Mr. English and Mr. Price have told me.

(Mr. Stokes objects to the whole of this witness's testimony in chief.)

Examination in chief resumed—I know the fact that Mr. Price moved his family and goods away from Burlington about the first of October; the Edwin Forrest is a steamer plying between Philadelphia and Trenton, stopping at Burlington.

Cross-examination resumed—I did not see his goods go on board the Forrest, but Price told me that he put them there; I do not think that he left a portion of his goods at his house in Burlington; I did not see his goods go; I was present at the time he voted; he asked my advice in regard to voting; his vote was not challenged; I am quite sure of that; I tried to get the vote challenged, but did not succeed.

R. H. ROSS.

Affirmed and subscribed this 11th day of January, 1864, before me.

JOHN RODGERS, *M. C. C.*

Adjourned until January 12th, 1864.

TUESDAY, JANUARY 12, 1864.

Parties present as before.

Charles P. Fort, a witness produced on the part of the contestant, and being duly sworn, says: I reside in Burlington; I have lived here about thirty-three years; I keep a small grocery store in Broad street; I know Isaac T. Price; he lived at Trenton on



the third of November last, so he told me; I cannot tell how long before the election he moved there.

Being cross-examined, says: I was never at his residence in Trenton; all I know about his residence there, is from what he told me himself.

(Mr. Stokes objects to the whole testimony in chief of this witness.)

Examination in chief resumed—He is employed in Trenton by A. G. English & Co.; I deal with that firm, and have done so for three years; Mr. Price transacts business for the firm between me and the firm; in business transactions by me, he acts as the agent of the firm; I buy goods of him and pay him; he told me on the day of the election that he lived in Trenton; he came down to settle a bill with me on that day, and after that called me out of the store to ask me what the law was on voting, if I would tell him, and I told him what I thought it was; that it was five months residence in the county, and one year in the State; and then he thought he had lost his vote, but that he ought to vote somewhere; that a man should not be debarred from it.

Cross-examination resumed—All I know about his being employed by Mr. English is what I have heard from Price himself and Mr. English; Price transacts business for English.

(Mr. Stokes objects to the examination in chief of this witness.)

CHAS. P. FORT.

Sworn and subscribed this 12th day of January, 1864, before me.

JOHN RODGERS, *M. C. C.*

Isaac T. Price, a witness subpoenaed on the part of the contestant, being called, did not appear.

Richard H. Morrell, a witness produced on the part of the contestant, being duly sworn, says: I reside in Beverly; I resided there on the third day of November last; I was present at the counting off of the tickets on the day of the election; after the votes were counted off and the figures carried out and footed up, there was an announcement of the result made by Mr. Charles Fenimore, the clerk of the election; I have a memorandum of a portion of the result of the election, which I made on the night of the election; I have the result of the election for Sheriff, Clerk and Assembly; I have not the vote for Coroners.

For Sheriff—The Democratic Candidate, - - - -	142
“ “ The Union Candidate, - - - -	159
For Assembly—The Democratic Candidate, - - - -	145
“ “ The Union Candidate, - - - -	156
For Clerk—The Democratic Candidate, - - - -	142
“ “ The Union Candidate, - - - -	157

Mr. Stokes was the Democratic candidate for Assembly, and Mr. Lathrop the Union candidate; those figures give to Mr. Lathrop a majority of eleven in the township of Beverly; I cannot say positively that the officers of the election signed a statement of the result of the election that night; I saw them sign something; I saw the clerk pass something around, it might have been the poll book; I saw two of them sign it; I cannot say whether this was before or after the votes had been counted; I saw Mr. Richard Wilmerton and Mr. Charles McElroy sign the paper, these were the only two; I did not see the others sign it; I know Charles Hutchinson; he resided in Beverly on the third of November last; he had lived in Beverly for some time; he had rented his house in Beverly to an intimate friend, and went to Philadelphia, and rented a house there, so I have understood, and his wife kept a boarding house there; he came back to Beverly in March or April of 1863, and took possession of his house again; for some twelve or fifteen months prior to March or April, 1863, he had not resided in Beverly.

Being cross-examined, he says: I have resided in Beverly off and on for seven or eight years, but since last May a year I have made it my permanent residence; I have known Mr. Hutchinson ever since I have been coming to Beverly, some seven or eight years; I know about his renting a house in Philadelphia and residing there twelve or fifteen months, only from my friend who rented Hutchinson's house in Beverly, and who told me that he (Hutchinson) had rented a house in Philadelphia, and was going to keep boarders there; my friend's name is Henry Stevens; that is the only way I know it, except by missing him from the place; I have had conversations with persons in Beverly about it; I had a conversation with Mr. Thomasson about it, who told me that he had taken a house in Philadelphia, and told me where it was, but I have forgotten it; I cannot say what the paper was which I saw signed; it might have been a book, or the poll book; it might have been the memorandum at the foot of the poll book of the number of votes polled; I cannot say whether it was before or after the poll closed; I made the memorandum I have produced here on the same evening of the election, immediately upon the announcement being made; it has not been in any wise altered since; I did all I could in Beverly to secure the election of Mr. Lathrop; I took a great interest in his election.

(Mr. Stokes objects to all that part of the testimony of the witness, relating to the residence of Mr. Hutchinson in Philadelphia.)

The paper produced by the witness, was here marked Exhibit C on the part of the respondent. RICH'D. H. MORRELL.

Sworn and subscribed January 12th, 1864, before me.

JOHN RODGERS, *M. C. C.*

Charles Hutchinson, a witness subpoenaed on the part of the contestant, was called, and did not appear.

Elisha Beldin, a witness produced on the part of the contestant, being duly sworn according to law, says: I reside in Burlington, and keep the City Hotel; I have been here about thirteen years; on the morning of the fourth of November, 1863, the day after the election, I had a conversation with Samuel Schuyler; this was a little after eight o'clock in the morning; this conversation occurred on the front step of my house.

*Question*—State what gave rise to the conversation, and what it was?

(Mr. Stokes objects to the question.)

*Answer*—There was a crowd on the southeast corner of Broad and Main streets, of twenty or thirty persons; there was loud talking and offering to bet two to one, that is, ten to five, twenty to ten, and so on up to forty to twenty, that Mr. Stokes was elected over Mr. Lathrop; Mr. Schuyler was one of the party who were offering to bet on Stokes, and he came along, having left the crowd, and came past me, walking on below; as he got opposite me, I said to him, "what have you discovered different in reference to this election since last night, that you are offering to bet two to one? are you in possession of any secrets since last night, that causes you to make these bets?" he said he was in possession of secrets; that he was betting on a certainty; he wanted to win his money back, he said; I believe that he professes to be a Democrat; then he passed on, and there was nothing more said between he and I.

(Mr. Stokes objects to the whole examination of this witness, the cross-examination being also subject to objection.)

Being cross-examined, says: I am an old line Henry Clay Whig; I have not voted for President since 1844; in other elections I vote for the men I like best; I have voted a solid Democratic ticket in this town; I seldom vote anything but a split ticket; at the last election I voted for Mr. Lathrop; the crowd on the corner of Main and Broad streets were not over a hundred feet off; I should judge that there was twenty or thirty in the crowd; it was a pretty big crowd; there might have been more than twenty; I did not count them; Mr. Edward Rigg was the man who was taking some of the bets; they were piling it up on him pretty fast, and that is the reason I asked the question; there were others there, but I do not recollect who they were; Schuyler was not boisterous; he was calm; it appeared to be a matter of business with him; he said he wanted to win his money back; no one was with me, or with him, when we had this conversation; I fix the time from the fact that it was just after my breakfast; I should judge that it was a little after eight o'clock; I have borne it in mind ever since.



Examination in chief resumed—I think that after my conversation I saw Mr. Lippincott, the judge, who had the box, Mr. Batten and Mr. Larzaleer, going up to the City Hall.

ELISHA BELDIN.

Sworn and subscribed January 12th, 1864, before me.

JOHN RODGERS, *M. C. C.*

Philip F. Snyder, a witness produced on the part of the contestant, being duly sworn, says: I reside at Beverly, New Jersey; I resided there on the third of November last; I have resided there some four or five years; I was present at the polls on the evening of November third, for some time before the polls closed, and at the time of closing; I was present while the tickets were being counted off; after the count was made, the result was announced by one of the election officers; I made a memorandum of the number, as soon as it was announced, of votes polled, and the vote for each candidate; the number of votes polled was three hundred and eight.

For Sheriff—William C. Lippincott, the Union candi-	date, received	-	-	-	-	159 votes.
“	Democratic candidate received	-	-	-	-	142 “
For County Clerk—Amos Gibbs	“	-	-	-	-	157 “
“	Democratic candidate received	-	-	-	-	142 “
For Assembly—Charles C. Lathrop received	-	-	-	-	-	156 “
“	Jarrett Stokes	“	-	-	-	145 “
For Coroner—Henry F. Reeve	“	-	-	-	-	162 “
“	Jabez Kingdon	“	-	-	-	162 “
“	Alexander Cowperthwaite received	-	-	-	-	163 “
“	Democratic candidate	“	-	-	-	136 “
“	“	“	-	-	-	138 “
“	“	“	-	-	-	137 “

That is the number of votes each candidate received as I marked it down at the time.

*Question*—Have you any memorandum of the official return made from that township?

(Mr. Stokes objects to the question.)

*Answer*—I have a memorandum which I cut out of the Mount Holly Mirror; the vote by this memorandum returned for Mr. Lippincott, the Union candidate for Sheriff, is 159; for Mr. Hargrove, 143; for Mr. Gibbs, Union candidate for Clerk, 157; for Mr. Hancock, 143; for Mr. Lathrop, for Assembly, 155; for Mr. Stokes, 146; after the votes were counted and the result was announced, the judges of the election signed a paper, which I supposed to be a statement of the result of the election; I think I saw them all sign it; after the result was announced, I stepped forward to the desk to see the officers sign the paper, and some of



them commenced to sign the paper; I know Charles Hutchinson, of Beverly; I know of his having removed from Beverly, and having rented his house; he rented it to a Mr. Stevens, who occupied it some time after he went away; I cannot say, positively, as to his residence in Philadelphia; I was told that he resided there; I understood that one of his daughters taught school in Philadelphia; he was an insurance officer there; I used to meet him occasionally in Philadelphia; I was in the city nearly every day, doing business there; my impression is that his family came back to Beverly in the spring of 1863.

(Mr. Stokes objects to all that part of the testimony of the witness relating to the official return from Beverly, and also that relating to the residence of Charles Hutchinson.)

Being cross-examined, says: I recollect seeing Mr. Fenimore write his name after the result was announced; I presume that I saw them all sign; I think I saw them all sign it, Mr. McElroy, Mr. Fenimore; the signing was upon a printed blank, I think; I am not positive; that is my impression at the time; the announcement was made before the paper was signed; I am personally acquainted with Mr. Hutchinson; he rented his house to Mr. Stevens; Mr. Hutchinson, so far as I know, is a respectable man.

The memorandum cut from the Mount Holly Mirror, produced by the witness and referred to in his testimony, marked as Exhibit F, on the part of the contestant.

(Mr. Stokes objects to the marking of the paper as an exhibit.)  
PHILIP F. SNYDER.

Sworn and subscribed January 12th, 1864, before me.

JOHN RODGERS, *M. C. C.*

James Watts, a witness on the part of the contestant, heretofore sworn, being recalled, says—I attended at the polls in this township on the third of November as a challenger for the Union party; I recollect that a person by the name of Morris J. Leeds offered his vote; he did vote; he voted the Democratic ticket; I know it because I challenged his vote on the ground of his being a non-resident; he swore his vote in, and after his vote was received, he turned around to me and said to me, Brother Watts, I have killed your vote; Leeds was in Burlington at the time, but I viewed his residence as being in Salem county.

(Mr. Stokes objects to that part of the testimony where Watts relates what Leeds told him.)

Cross-examined—*Question*—Did he swear that he was a resident of Burlington?

(Mr. Lathrop objects to the question.)

*Answer*—He did.

He is an unmarried man; I think that he is about twenty-three

years old; his father resided here up to a short time before the election, when he died; he is a school teacher at Pennsgrove, in Salem county.

JAMES WATTS.

Sworn and subscribed January 12th, 1864, before me.

JOHN RODGERS, *M. C. C.*

Godfrey H. Hays, a witness produced on the part of the contestant, being duly sworn, says: I reside about a mile and a half from this place in Burlington township, when I am at home; I am now teaching at Riverton; I know J. Morris Leeds; he is the same person spoken of by the last witness, Mr. Watts; he resides at Pennsgrove, in Salem county; he has resided in the neighborhood, at Sharpstown and Pennsgrove, in Salem county, about three years.

Being cross-examined—I know that he resides at Pennsgrove, Salem county, because he has told me so; he has told me several times; he told me so on the evening of the last fourth of July, for once; we were speaking about matters; we were then in Main street, in Burlington; he gave me a circular in regard to his school; I think we were sitting in Mitchell's ice cream saloon when he said that he was teaching at Pennsgrove, and that he was residing there; I am sure that he said that he was residing there; on that occasion he gave me this circular of which I speak; the pencil writing on the back of the circular is mine; I believe that I wrote it there some time last week, wishing to give the correct dates about the matter; I was thinking about it, I put the dates down, I got these dates in pencil mark from the source of reflection, these dates are put here from memory alone; I voted here at the last election; I did not act upon any political committee; I was attached to the Republican party.

Paper produced by the witness, marked as Exhibit G on the part of the contestant, being a circular of J. Morris Leeds.

Examination in chief resumed.—This is the paper he gave me; I believe that he told me that he voted in Salem county; he voted for Jarrett Stokes for Assembly at the last election here.

(Mr. Stokes objects.)

Cross-examination resumed—I think that he told me about two months since, he voted in Salem county; he said that his name headed the enrolment there; when he told me this, we were standing on the corner of Broad and York streets, in Burlington; he did not tell me at what time he voted in Salem county; this was before the last election.

GODFREY H. HAYS.

Sworn and subscribed January 12th, 1864, before me.

JOHN RODGERS, *M. C. C.*

Benjamin A. Farnham, a witness produced on the part of the contestant, being duly sworn, says: I reside in Beverly; I have resided there eight or nine years; I voted at the election held on the third of November last, in Beverly township; I was present in the evening when the vote was counted off and the result was announced; I did not keep a memorandum of the result; as my memory serves me, the vote for Assembly, as announced by the judges, was one hundred and forty-five for Jarrett Stokes, and one hundred and fifty-six for Mr. Lathrop, giving Mr. Lathrop eleven majority; this was so declared as the result of the election; after the votes were counted and the result announced, I saw the judge of the election sign something which I supposed to be a statement of the result of the election; I have no positive knowledge of the votes being recounted the next day; I have had a conversation with Mr. Charles R. Fenimore, the clerk of the election, upon the occasion of calling upon him in company with Mr. Manderson, Mr. Fletcher, and Mr. Lathrop; I think this was about ten days subsequent to the election.

*Question*—In that interview did or did not Mr. Fenimore, the clerk of the township, state that they had recounted the votes on the morning of the election?

(Mr. Stokes objects to the question because it is leading and asks for hearsay.)

*Answer*—According to the best of my recollection, no allusion was made to that point during our interview; there was something said at this time about a change in the vote as returned officially and that announced on the evening of election; we stated to Mr. Fenimore that the object of our visit was to look into the returns of the votes given for the members of Assembly; that we had been informed that a different result had been returned from that announced at the summing up at the close of the polls; the object we had in view was to ascertain by a recount the discrepancy between the vote as returned and that announced at the close of the election; in counting the ballots for the candidates for Assembly with Mr. Fenimore, I kept the tally, Mr. Manderson read the names; this examination showed that Mr. Stokes had received one hundred and forty-six votes, and that Mr. Lathrop had received one hundred and fifty-five votes; in our count there was a ballot of the Union ticket where the name of Mr. Lathrop was faintly erased with pencil; it occurred to us that the vote should have been counted for Mr. Lathrop; the erasure was very faint, hardly intelligible; this is my tally list; there were three ballots numbered respectively 281, 296 and 302, had Mr. Lathrop's name erased and Mr. Stokes' name substituted, all done apparently in the same handwriting; 285 was scratched and counted for Mr. Stokes; 294 counted for Mr. Stokes; had Mr. Lathrop's name cut out and Stokes' name substituted in pencil; 284 ballot had the



name of Mr. Lathrop faintly scratched with pencil, and not counted for him; 297 counted for Mr. Stokes; had Mr. Lathrop's name erased and "Garet Stockes" written in pencil; 302 counted for Mr. Stokes; had Mr. Lathrop's name erased; of rejected votes we found that four votes were cast for Mr. Lathrop, and six for Mr. Stokes; these were five double votes, so that, in reality, Mr. Stokes lost three votes, and Mr. Lathrop lost two votes by the rejected ballots; Perkins' meat shop is considered the Democratic headquarters in Beverly; I know of such a gentleman as Charles Hutchinson; I know he did leave Beverly some time ago; he went to the city of Philadelphia, I think; he removed his family; I do not know how long he was gone; he returned to Beverly some time last year; I think he returned in the autumn of 1863.

Being cross-examined: I think that the meat shop is a building of two stories; the Democratic headquarters, I have understood, are in the second story; when we called upon Mr. Fenimore he was not alone; we found him at Buck's hotel, at Delanco; I think that we had not previously advised him of our intended visit; I did not know any of the persons with him; I went in and called him out; the interview was entirely confined to him; I understood him to be the clerk of the township of Beverly; the hotel was not his place of residence; we went to his house first, and were told by Mrs. Fenimore that she thought we would be likely to find him at the hotel; the ballot box was not at the hotel; Mr. Fenimore produced the box at his house, where we went; there were no other persons in the room except Mr. Fenimore and those I have named as being with me; he said that if we had a right to examine the box he had no objection to it, and we further stated that if he thought that he had no right to produce the box, we should not urge it, and would leave it to his own discretion entirely; we did not take the statute book with us; when we were going from the hotel we called at Mr. Fletcher's, and he read the law to Mr. Fenimore; Mr. Fenimore also read it himself; I do not think that Mr. Fenimore told us that we had no right to examine anything but the poll book and the tally list; this is the memorandum which I made at the interview referred to; all the writing in ink is mine, and has not been altered since it was made; these tally marks represent the ballots for Stokes and Lathrop as we found them there; I think the rejected ballots were not numbered; the rejected ballots were wrapped up together, and it was stated that they were rejected at the announcement of the result of the election; our calling upon Mr. Fenimore was entirely voluntary on our part; we were a self-constituted committee; we were dissatisfied with the change which had been made in the vote, and wanted to ascertain about it; I voted with the Republican party last fall.

(Mr. Stokes asked that the tally list produced by the witness be



marked as an exhibit. Mr. Lathrop declines to allow it to be so marked at the present time.)

B. A. FARNHAM.

Sworn and subscribed January 12th, 1864, before me.

JOHN RODGERS, *M. C. C.*

George W. Smith, a witness produced on the part of the contestant, alleging himself to be conscientiously scrupulous of taking an oath, and being duly affirmed, says: I live in Springfield township; I was in Burlington on the night of election, the third of November last; I was at Mr. Kinsey's hotel; I left there on Wednesday, the following day; I did not go home until the evening of Wednesday; I was not in Jonathan Woolman's store at the Mount, in our township, on the morning after election.

Being cross-examined, says: I got home about ten o'clock.

GEORGE W. SMITH.

Affirmed and subscribed January 12th, 1864, before me.

JOHN RODGERS, *M. C. C.*

Abraham Wilmerton, Jr., a witness produced on the part of the contestant, being duly sworn, says: I live at Bridgeborough, in Cinnaminson township; I was here in Burlington on the night of the election, on the third of November last, after we got our returns; I reached here about eleven o'clock; when I got here, the returns from the different townships in the district were all in, and part of them were going home with the returns; by the returns as in, Mr. Lathrop was elected by four majority.

*Question*—Before leaving Burlington that evening, did you hear that Mr. Stokes was elected?

(Mr. Stokes objects.)

*Answer*—I heard that he was elected, or would be; I heard this at Higbee's hotel; I heard Silas Coleman say so. (Mr. Coleman being in the room, the witness identified him.) In the first place, I heard him talking to Charles Austin, and hearing him, I paid attention and turned around, and Charles introduced me to him; he said that we could go home, and bet on Jarrett's election by three majority for certain, if not four; he said he had fifteen or twenty dollars he would bet himself; I said to him, I believe that there is something wrong about this; said he, never mind about that, we have got it fixed all right, for I have just come from there; I asked who was there, if there was anybody there from our neighborhood; he said there was; he said that Wallace Lippincott and William Lippincott were there, and Jarrett Stokes; that he had just been talking with Wallace, he was acquainted with him; I asked him the question how they had fixed it, I

wanted to know; he answered something about the way the tickets were counted, I did not understand it exactly; he said that Wallace explained it, and he said something about how the tickets were scratched; it was something I did not understand, and I wanted him to explain it again, and he said, "never mind, let us take a drink;" I think this was about a quarter past one o'clock on Tuesday night and Wednesday morning.

(Mr. Stokes objects to all that part of the testimony which relates to conversations with Mr. Coleman and others.)

Being cross-examined, says: I came up from Bridgeborough in my own conveyance, with Evan Seeds; I fix the time of my arrival here by the time when I left Bridgeborough, which was ten o'clock; the distance is five miles; I went to Higbee's on my arrival in Burlington; I remained there until I went home; Seeds returned with me; we got home something after two o'clock; Higbee's bar-room was pretty well crowded when I went there; I should not wonder if it was a pretty gay party; I think I was all right; I had been at my business all day, and voted in the evening; I voted with the Republican party last fall; I guess that there was not any one else except Charles Austin who heard the conversation with Mr. Coleman except myself; I fix the time because I was getting ready to go home, and I looked at the clock; I think that it was a quarter past one when I saw Coleman at Higbee's, and took a drink with him.

ABRAHAM WILMERTON, JR.

Sworn and subscribed before me, this 12th day of January, 1864.

JOHN RODGERS, *M. C. C.*

The further examination of witnesses was adjourned until Friday, January 15th, at 10½ A. M.

JOHN RODGERS, *M. C. C.*

FRIDAY, JANUARY 15, 1864.

Parties present as before.

Hezekiah A. Johnson, a witness produced on the part of the contestant, being duly sworn, says: I reside in Delanco, in Beverly township; I lived there at the time of the last election in November, and voted at that election; I know that a person named Alfred Kepner voted at that election; he voted a ticket which was headed Democratic; he moved to Beverly township about the first of April last, or his father did; he came with him; I heard that his father moved there from Philadelphia; Kepner, the young man, I have not seen since the election; I have understood that he has been there; I think I told Kepner, the young man, that he was not entitled to a vote; some others did; Mr. Buck told him that he did not think that he was entitled to a vote there.

(Mr. Stokes objects to all that testimony which speaks of information derived from others.)

Being cross-examined, says: I saw Kepner vote; I know that the ticket was headed Democratic, because the ticket was rolled up and the heading was turned out, and I saw it; I had known Kepner from the time he came there until the election; sometimes he was visible and sometimes not; I did not know anything about him, or where he came from; his father still resides there; I do not know to any certainty where his father resided or came from before he came to Beverly; I voted the Democratic ticket.

HEZEKIAH A. JOHNSON.

Sworn and subscribed January 15, 1864, before me.

JOHN RODGERS, *M. C. C.*

Joseph Wills, a witness produced on the part of the contestant, alleging himself to be conscientiously scrupulous of taking an oath, and being duly affirmed, says: I live in the township of Willingboro'; I was in the city of Burlington on the night of the election, the third of November last; I saw Mr. Jarrett Stokes here, at Kelly's hotel, and I also saw him between Beldin's and Higbee's hotels, as he was coming in in a carriage; I left Burlington about half-past eleven o'clock; he had come before that; I was in the village of Rancocas on the morning of Wednesday, the next day; I got there, I suppose, from a quarter to half-past ten o'clock; I saw Alexander Jackson as I was passing through Rancocas; I did not stop; I said to Mr. Jackson that Mr. Stokes was elected; I had not at that time heard the result of the recount in Burlington on Wednesday morning; when I was in Burlington on the night before, the returns, as they came in, showed that Mr. Lathrop was elected; this was the rumor which I heard that night; I am a political friend of Mr. Jarrett Stokes; I voted for him.

Being cross-examined: I told Mr. Jackson that Stokes was elected, because my brother had been to Beverly that morning, and said to me that he heard there that they had had a recount, gone over the votes, and found a mistake made the night before, which made a difference of three votes in favor of Mr. Stokes, and that he had also heard that there were two votes, voted in Cinnamonson for a man by the name of Lathrope, which had been counted for Mr. Lathrop, and would be likely to be thrown out; these were the only grounds upon which I made the statement; I had not at that time heard, or had any intimation of any change, as announced the night before in Burlington; I cannot say that I had heard of any contemplated recount in Burlington.

Examination in chief resumed: My brother made this statement to me relating to the vote in Beverly, between nine and ten o'clock on Wednesday morning; I live some three miles from Beverly;



it was where I reside that my brother made this statement to me; Wallace Lippincott told me of these two votes in Cinnaminson, the night before, and said that they should not have been counted.

JOSEPH WILLS.

Affirmed and subscribed January 15th, 1864, before me.

JOHN RODGERS, *M. C. C.*

Alexander Armstrong, a witness subpoenaed on the part of the contestant, being called, did not appear.

Alexander Jackson, a witness subpoenaed on the part of the contestant, being called, did not appear.

John Kepner, a witness produced on the part of the contestant, being duly sworn, says: I live in Delanco, in the township of Beverly; I have lived there since the middle of last April, 1863; I moved from the city of Philadelphia to Delanco; I have a son by the name of Alfred Kepner; he lived with me in the city of Philadelphia prior to my coming to Delanco; I do not know whether he is exactly a resident of the State of New Jersey yet; he is sometimes with me and sometimes in the city; he had not lived in the State of New Jersey before the middle of April, 1863.

Being cross-examined: My son is nearly twenty-seven years old; he had always lived with me up to the time of my coming here; he is a single man; he moved up when I did; he served an apprenticeship to bricklaying; he makes segars now; sometimes goes fishing; for twenty-three years previous to my coming to Delanco, I had been living in Philadelphia; my son had always lived with me.

JOHN KEPNER.

Sworn and subscribed January 15th, 1864, before me.

JOHN RODGERS, *M. C. C.*

David B. Trimble, a witness produced on the part of the contestant, alleging himself to be conscientiously scrupulous of taking an oath, and being duly affirmed, says: I am a practicing physician, residing at Beverly, in this county; I have resided in the county some fifteen years; I know Charles Hutchinson, who now resides in Beverly, at least his family there; I knew of his having left Beverly a year ago last spring; he removed his family with him; they went to Philadelphia, I believe; I am not positive when they went away, but I think it was in the month of April, 1862; I know of his having had a sale of his personal property prior to his leaving; I was present at the sale; I understood that he offered his real estate for sale; he voted at the last election in



our township, on the third of November; I cannot say positively what his politics are, but I believe he is a Democrat; I saw him at the polls when I was there; he was talking with several persons; I did not hear what he said; I was present at the polls when the vote was counted off; an announcement was made of the result of the election, by the officers, at the close of the count; I cannot say that I heard the result, as announced, but asked a person by me what it was, and the reply was, eleven majority for Mr. Lathrop; Mr. Hutchinson returned to Beverly in the spring of 1863.

Being cross-examined, says: I have lived in Beverly for nearly three years; I live next door to Mr. Hutchinson; I knew him before he went to Philadelphia, but did not know his business, nor do I now; he owned the house he occupied; it was occupied during his absence by a Mr. Stevens, who resided there until the spring of 1863; he sold a good many articles of housekeeping, garden tools, &c., the rest of his goods he took with him; I took an active part for Mr. Lathrop at the last election; I do not know that I was more active than others.

D. B. TRIMBLE.

Affirmed and subscribed January 15th, 1864, before me.

JOHN RODGERS, *M. C. C.*

The further taking of depositions was now adjourned until Friday, January 22d, at ten o'clock A. M., at Kinsey's hotel, in Burlington.

JOHN RODGERS, *M. C. C.*

FRIDAY, JANUARY 22, 1864.

Parties present as before.

The contestant stated that the testimony on his part is closed for the present.

I do further certify, that Exhibits C, D, being tally lists taken from the ballot-box of Burlington township, which box with its contents were delivered to me by Mahlon Hutchinson, esq., prosecutor of the pleas of Burlington county; and Exhibit E on the part of the contestant, the latter being a tally list taken from the ballot-box of Beverly township, are still in my possession, the two former tally lists to be returned to Mr. Hutchinson, prosecutor, &c.

JOHN RODGERS, *M. C. C.*

## EXHIBIT A—CONTESTANT.

DELANCO, December 26, 1863.

JARRETT STOKES, *Rancocas* :

RESPECTED FRIEND:—In accordance with notice given you on the 30th ult., I beg leave now to inform you that I shall proceed to take testimony, to be used before the House of Assembly in contesting the right to the seat there, under the certificate given you, on Wednesday, the sixth day of January (proximo), before John Rodgers, Master in Chancery, at Beldin's hotel, Burlington, and propose to examine the following persons as witnesses, viz :

John Swanson, Beverly.	John T. Hunter, Cinnaminson.
Charles Hutchinson, Beverly.	Job King, "
John McElroy, "	Morris J. Leeds, Burlington.
H. A. Johnson, Delanco.	Godfrey Hays, "
William Keperell, "	Isaac T. Price, "
Ab. Armstrong, Beverly.	R. H. Ross, "
Charles H. Peart, "	C. P. Fort, "
Charles C. McElroy, "	Elisha Beldin, "
Richard F. Wilmerton, Delanco.	Edward Woolman, Rancocas.
Charles Fenimore, "	Joseph Wills, "
[with ballot box.]	Alexander Jackson, "
Silas A. Coleman, Burlington.	Samuel Wills, "
Samuel Coleman, "	Daniel Wills, "
James Watts, "	Jarrett Stokes, "
William Glover, Bridgeboro'.	James Russell Battin, Burlington,
Ab. Wilmerton, Jr., "	[with ballot box.]
Charles Austin, "	Samuel R. Schuyler, Burlington.
John Sheddin, "	Benjamin F. Lippincott, "
Thomas Fletcher, Delanco.	William Larzaleer, "
Rev. Charles Boyter, Beverly.	Joseph P. Deacon, "
Robert Vansciver, Cooperstown.	Michael W. Keegan, "
Joseph L. Wright, Burlington.	George Horn, "
Jona. M. Roberts, "	Benjamin A. Farnham, Beverly.
J. Howard Pugh, M. D., "	Andrew Manderson, "
Joel R. Danser, "	David Harmer.
Hamilton McDowell, "	George Smith, Springfield.
Thomas Richardson, "	Joseph L. Lamb, "
John G. Burling, "	George Hulme, Mount Holly.
William Stiles, "	John L. Linton, Beverly.
William Page, "	Richard A. Morrell, "
Daniel P. Naylor, "	I. B. Trimble, M. D., "
Philip F. Snyder, Beverly.	Josephus Sooy, Mount Holly.
Clayton Conroe, Cinnaminson.	Benjamin Ridgway, Rancocas.
Samuel Hunter, "	

I remain, Very Truly Yours,

CHAS. C. LATHROP.

## EXHIBIT B—CONTESTANT.

DELANCO, November 30, 1863.

FRIEND JARRETT STOKES:

Having become satisfied that I was legally elected to the Assembly from this District, I hereby give you due and official notice, that I shall contest your claim to the seat in the Assembly, under the certificate given you, for the following reasons:

*First.* The proper, correct and official vote (as announced at the close of the polls), in Burlington township, gave me one hundred and seventy-five majority, and should so have been returned by the judges of election; but instead thereof they make their returns so as to give me but one hundred and sixty-nine majority. I have reason to believe that the ballot box was improperly dealt with, and the result fraudulently produced.

*Second.* On re-examination of the box, it is found that the returns of the judges do not agree with the state of the votes as polled, or as found now in the box, as will be fully shown before the Assembly.

*Third.* On examination, it is found that a vote polled for Levi French, in the same box, was counted for you, and the following illegal votes were polled for you at the same poll, viz: by Silas A. Coleman, Morris J. Leeds and Isaac T. Price, who were not entitled to vote.

*Fourth.* The vote in Beverly township, as counted out and officially announced at the close of the polls, gave me eleven majority, but the return judges give me, improperly, but nine, while, on re-examination of the tally lists, it is shown that I was entitled to a majority of thirteen.

*Fifth.* The following illegal votes were voted for you at the same poll, viz: a Mr. Hutchinson and a Mr. Keprell, who were not entitled to a vote.

All of which is respectfully submitted.

I am Very Truly Yours,

CHAS. C. LATHROP.

## EXHIBIT F—CONTESTANT.

## BURLINGTON COUNTY OFFICIAL RETURNS,

FOR THE YEAR 1863.

TOTAL,		4511		4498
L. EGG HARBOR,	263	151	118	268
WASHINGTON,	151	52	118	57
SHAMONG,				
SOUTHAMPTON,	111	209	259	118
PEMBERTON,	93	331	249	118
WESTAMPTON,	190	111	209	235
LUMBERTON,	123	103	93	106
MEDFORD,	223	172	224	187
EVESHAM,	351	151	324	176
CHESTER,	251	95	249	98
NORTHAMPTON,	399	152	384	212
SPRINGFIELD,	173	201	162	169
CINNAMINSON,	134	296	133	297
BEVERLY,	159	143	157	143
WILLINGBORO',	63	56	63	56
BURLINGTON,	540	384	537	385
NEW HANOVER,	178	260	180	258
MANSFIELD,	275	272	294	255
CHESTERFIELD,	77	493	77	489
BORDENTOWN,				
FOR SHERIFF,				
W. C. LIPPINCOTT.....	258		263	
Jos. A. Hargrove.....	493		489	
FOR COUNTY CLERK,				
Axos Gibbs.....	263		263	
Ridgway Hancock.. ....	489		489	
FOR ASSEMBLY,				
W. P. McMichael.....	590		590	
C. C. LATHROP.....		546		546
Jarrett Stokes.....		377		377
I. W. HEWLINGS.....				
HENRY J. IRIEK.....				
Levi French.....				

FOR CORONERS,

HENRY F. REEVES.....	749	283	547	437	909	63	163	430	374	387	250	502	396	292	206	539	507	237	149	414	7834
JABEZ KINGDON .....	252	207	273	178	533	63	162	133	173	389	250	327	225	188	111	229	268	118	149	254	4481
A. CowPERTHWAIT.....	252	207	274	178	538	63	163	133	173	399	250	327	225	189	111	230	270	118	149	243	4492
A. B. Kelley.....	498	76	275	259	387	56	137	297	201	155	95	175	171	103	95	309	236	119	53	157	3855
Jos. B. Crammer.....	495	76	273	259	383	56	139	297	201	151	96	175	171	101	96	309	238	119	57	161	3853

There was no opposition to William P. McMichael and Israel W. Heulings. Henry F. Reeve was run on both tickets.







## RESPONDENT'S DEPOSITIONS.

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STATE OF NEW JERSEY, }  
BULLINGTON COUNTY, } ss.

Between

JARRETT STOKES,  
Respondent,

and

CHARLES C. LATHROP,  
Contestant.

*In the matter of the contested  
election in the Second Assembly  
District, Burlington County. „*

I, John Rodgers, one of the masters and examiners in the Court of Chancery of the State of New Jersey, do hereby certify that on the fifteenth day of January, in the year eighteen hundred and sixty-four, Jarrett Stokes, Esq., of the Second Assembly District, in said county, did apply to me for the appointment of a time and place when and where depositions of witnesses should be made and taken on the part of the said Jarrett Stokes as respondent in the matter of the contested election in the said Second Assembly District, wherein the said Jarrett Stokes is respondent, and Charles C. Lathrop is contestant, and that I did thereupon appoint Friday, the twenty-second day of January, instant, at ten o'clock in the forenoon, at the hotel of William S. Kinsey, in the city of Burlington, as such time and place.

I do further certify that on the same fifteenth day of January, in the year one thousand eight hundred and sixty-four, the said Jarrett Stokes did apply to me for the issuing of subpoenas for the attendance of the following named persons as witnesses, at the said time and place, namely:

Charles Stokes,  
Caleb F. Hendrickson,  
Richard F. Wilmerton,  
Paul Jones,  
Asael Jones,  
Benjamin F. Lippincott,  
David P. Lukens,  
William S. Kinsey,  
George Wetherill,  
Christopher Wetherill,  
Edward G. Keegan,  
John Larzaleer,  
Levi Kemble,

Isaac T. Price,  
J. Morris Leeds,  
William H. Stiles,  
William Marter,  
Hamilton McDowell,  
James Russell Batten,  
Michael W. Keegan,  
George J. Miller,  
Thomas Wetherill,  
Henry Hollemback,  
Francis Roth,  
Daniel Deacon,  
Wallace Lippincott,

Alexander A. Larzaleer,  
 Michael White,  
 William Pew,  
 William H. Lloyd,  
 Samuel K. Schuyler,  
 Paul Early,  
 Samuel R. Stevenson,  
 George W. Vansciver,  
 Thomas Doolin,  
 Bloomfield Sisom,  
 Susan Asay,  
 William Measey,  
 William Cooper,  
 Thomas Murphy,  
 John Boyle,  
 Benjamin S. Myers,  
 Elijah S. Brown,  
 George W. Smith,  
 Nathan W. Fenimore,  
 Israel Stokes,  
 Joseph Lundy,  
 Silas A. Coleman,  
 Thomas M. Richardson,  
 Israel Worden,  
 Charles Williams,

Jonathan Knight,  
 Joseph L. Wright,  
 James W. Wall,  
 Hezekiah Johnson,  
 William Larzaleer,  
 Charles H. Peart,  
 Charles C. McElroy,  
 Charles R. Fenimore,  
 Henry Herzog,  
 Ira Starkey,  
 Albert Jocus,  
 John J. McElroy,  
 Henry V. Fenimore,  
 Charles Hutchinson,  
 Joseph Cutter,  
 Michael Cafferty,  
 John Heisler,  
 Charles Austin,  
 Mahlon Hutchinson,  
 John Rogers,  
 Jarrett Stokes,  
 Charles Gibbs,  
 Mr. John Wiley,  
 David R. Neal,  
 Isaac Newton.

According to a notice given to the said Charles C. Lathrop, a copy of which, marked Exhibit J, on the part of the respondent, hereto annexed.

And I do certify that the appointment of the time and place aforesaid, for the taking of depositions of witnesses, was agreed upon by and between the said Jarrett Stokes and Charles C. Lathrop, and that the said Charles C. Lathrop waived the time specified in the statute in such case made and provided, for the service of the notice of taking depositions and a list of witnesses to be examined.

Friday, January 22d.—At the place designated, I commenced the taking of depositions on the part of the respondent, as follows:

### DEPOSITIONS.

John Boyle, a witness produced on the part of the respondent, being duly sworn, says: I voted at the election held in Burlington on the third day of November last; I voted for Mr. Lathrop for Assembly; Mr. George Taylor gave me the ticket which I voted; I voted the same ticket which he gave me; he gave me a dollar with it; he told me that the dollar was to pay my tax; I do not know rightly my age; I judge that I am twenty-one in February;



I took my age to be twenty-one when I voted; I find I am not twenty-one when I voted; I have been an apprentice to Mr. John Heisler; I enlisted in the army during my apprenticeship, for nine month; I was in Company G, Twenty-third New Jersey regiment, Captain Ridgway.

Being cross-examined: I live with Marcus Heisler, in Burlington township; I have lived with him four months; George Taylor is a butcher; there were other names besides Mr. Lathrop's on the ticket; I did not see any of them crossed; I do not know what the other names on the ticket were; I do not know who I voted for for sheriff; I did not notice the ticket; I did not notice any name upon the ticket but Mr. Lathrop's; I did not read the ticket; I believe that I have not had any talk with any one about this matter, but Mr. Marcus Heisler; I have had frequent talks with him; I have had a talk with Mr. Joseph Wright, the marshal of Burlington; he said he wanted to see me; I had a talk with him three weeks ago to-morrow; Mr. Wright asked me if I was of age when I voted, and I told him that I thought not; he asked me who I voted for, and I told him Mr. Lathrop; I cannot tell what year I was born in; I was talking about the matter with Mr. Heisler one day, and thinking on it, I found I was not of age; I am not now right sure whether I was twenty-one when I voted, or not; I don't think any one around here knows my age; I had no doubt of my being of age when I voted, until I talked with Mr. Marcus Heisler, who seemed to think I was not of age; Mr. Marcus Heisler is a farmer, living near Burlington; I had never voted before; I enlisted in August of 1862; I returned in June, 1863; I went back to John Heisler's to work, and staid with him about two weeks, and then left.

JOHN BOYLE.

Sworn and subscribed January 22, 1864, before me.

JOHN RODGERS, *M. C. C.*

John Heisler, a witness produced on the part of the respondent, being duly sworn, says: I reside on the Mount Holly turnpike, about one mile from Beverly; I am a farmer; I know John Boyle, the witness just examined; he was bound to me as an apprentice to learn the farming business; I have the indenture; this is it, (paper produced by witness marked Exhibit K, on the part of the respondent); he was bound to me about the time the indenture bears date; the indenture is now as it was made, without alteration; I do not know the age of Boyle, except as it is stated in the indenture; at the time the indenture was made, I understood his age as there stated; I cannot tell how long he was with me, but it was until he enlisted in the nine months' service; at the expiration of his enlistment he returned to me; he remained about ten

days or two weeks; I do not know why he left, unless he wanted to be his own master after he had been soldiering; I know Marcus Heisler, he is my brother.

Being cross-examined, says: I found the boy at Joseph Davie's; all that I know about his age is from the indenture.

Examination in chief resumed.—After he had left me, upon his return from his enlistment, I advertised him as a runaway apprentice; (paper produced, marked Exhibit —, on the part of the respondent; this is the advertisement.

JOHN R. HEISLER.

Sworn and subscribed January 22, 1864, before me.

JOHN RODGERS, *M. C. C.*

Paul Jones, a witness produced on the part of the respondent, being duly sworn, says: I reside in Beverly township; I know Mr. Charles C. Lathrop; I live about a half mile from him; I have known him two years next spring; I did not see him move; I was not at the moving; my impression is that he came there in April, 1862; as near as I can tell, it was either the seventh or eighth of April; the information that I derived from him was that he came from Philadelphia, previously to his coming to Delanco; the house into which he moved had been closed; Mrs. Caruthers, the prior occupant of the house, moved from it in September, 1861, and it remained vacant until Mr. Lathrop moved in; Mr. Lathrop may have been in and out of the house; it was vacant.

Being cross-examined: I have always understood that Mr. Lathrop purchased the property of Mrs. Caruthers in September, 1861, when she moved away; I think Mrs. Caruthers had an auction of her personal property when she left; I was there in the evening of the day of the sale; I think that was the day she moved away; I think it was in September, 1861; I understood at that time that Mrs. Caruthers had disposed of the property to Mr. Lathrop; Mr. Lathrop first voted in our township in the spring of 1863, at the election held in March.

Examination in chief resumed.—I mean by saying that Mr. Lathrop might have been in and out of the house, that if a person had purchased a house, he would be likely to look at it; it is a mere inference.

Being cross-examined, says: I was a candidate for the office of chosen freeholder in Beverly in the spring of 1863; I know that Mr. Lathrop voted for me; I did not ask him to vote for me; he told me that he was going to vote for me; I belong to the Democratic party.

PAUL JONES.

Sworn and subscribed January 22, 1864, before me.

JOHN RODGERS, *M. C. C.*

Asael Jones, a witness produced on the part of the contestant, being duly sworn, says: I am the son of Paul Jones, the witness just examined; I live with him; I know Mr. Lathrop; he moved to Delanco in the fore part of April, 1862; the house into which he moved had been closed until he moved there; he came from Philadelphia, I understood; his goods were brought up in the steamboat Edwin Forrest; I had known or seen him before at Delanco, in the latter end of September, 1861, at the railroad station.

Being cross-examined, says: It was some three weeks after Mrs. Caruthers left that I saw Mr. Lathrop; he purchased or traded with Mrs. Caruthers for the property; he took possession of it at that time; I do not know positively that he had goods in the house during that fall and winter, but I had it from pretty good authority that he had; I never went there to see; I understood he got these goods from Mrs. Caruthers.

ASAEEL JONES.

Sworn and subscribed January 22, 1864, before me.

JOHN RODGERS, *M. C. C.*

Charles Stokes, a witness produced on the part of the respondent, alleging himself to be conscientiously scrupulous of taking an oath, and being duly affirmed, says: I am the father of Jarrett Stokes, and reside in the township of Willingboro', in this county; I have seen Charles C. Lathrop; the first time I saw him to know him was the afternoon of the day the Board of Canvassers met, on the sixth of November last, at Mount Holly; I was introduced to him by Jarvis Woolman, one of the election officers, and after some general conversation, I told him I was glad of the opportunity to ascertain from him the truth in regard to the report that he had not been a resident of the State for two years; he intimated that there might be some doubt upon that subject; I asked him when he removed with his family into the State; he first said in the spring of 1861; I then remarked that that would be more than two years; he corrected himself, and said that it was in the spring of 1862; I then said that that would determine the question; he remarked that that would be a question for the House of Assembly to settle; this is the substance of what occurred at that time, as I now recollect.

Being cross-examined, says: I understood from him that he purchased the property in Delanco in the fall of 1861; I understood from him that he put the construction that he considered himself a resident of New Jersey when he purchased the property.

*Question*—Did he not state to you at that time that he rented his property in Philadelphia immediately upon purchasing the property in Delanco, and declared his intention to reside in New Jersey?

*Answer*—I have no such recollection.



I have no recollection of his telling me that he and his family boarded in Philadelphia between the time of his purchase of the Delanco property and his removal there; I do not remember whether any other persons heard this conversation, there might have been; this conversation took place at Jacob Leeds' store, in Rancocas.

Examination in chief resumed—*Question*—Was not the claim made by Mr. Lathrop, in the conversation to which you referred, that his simple purchase of the property of Delanco made him a resident of the State?

*Answer*—The simple purchase of the property, together with his having goods in the house, and his intention to remove in the spring, formed the basis upon which he reckoned himself a resident of the State.

Cross-examination resumed—*Question*—Did he not say that when he purchased the property at Delanco, of which he took immediate possession, and in which were stored divers household goods belonging to him, that he did so with the intention of being a resident of New Jersey, which intention he declared at the time, and that all his subsequent acts corresponded with the fact of a residence in New Jersey, or words to that effect?

*Answer*—I answer no, if I am to answer the whole question in the affirmative or negative.

*Question*—Was not the point embraced in the last question the point argued between you and Mr. Lathrop?

*Answer*—I do not consider that there was any argument; we talked upon the subject, as stated in my previous testimony.

CHAS. STOKES.

Affirmed and subscribed January 22, 1864, before me.

JOHN RODGERS, *M. C. C.*

Caleb F. Hendrickson, a witness produced on the part of the respondent, alleging himself to be conscientiously scrupulous of taking an oath, and being duly affirmed, says: I have a slight acquaintance with Mr. Lathrop; I had a conversation with him in the railroad cars, between here and the Rancocas creek, within a few days after the last election; a portion of our conversation related to the length of time during which he had resided in New Jersey; the question which I put to Mr. Lathrop, was in regard to the length of time he had been in the State, or about the time when he moved into the State; the answer which he gave me was, about eighteen months, or else that he moved here in April, 1862.

Being cross-examined, says: He did not tell me when he purchased property here.

C. F. HENDRICKSON.

Affirmed and subscribed January 22, 1864, before me.

JOHN RODGERS, *M. C. C.*



Hamilton McDowell, a witness produced on the part of the respondent, being duly sworn, says: I was one of the judges of election, as assessor, of the election held in the township of Burlington, on the third of November last; Benjamin F. Lippincott was the judge, William Larzaleer was collector, and J. Russell Batten was clerk; after the polls were closed, I assisted in counting the votes that night; the counting was conducted in the usual way pursued in Burlington, by counting the solids first; Mr. Lippincott, the judge, took the ballots from the box; as he would take the ballot from the box, he would announce them as Republican solid or Democratic solid, as the case might be; the names on the solid tickets were read by calling them solid; if announced as a Democratic solid, the ticket was handed to me, and I strung it; if a Republican or Union solid, it was handed to Mr. Larzaleer, who strung it; upon the tickets being thus handed to either Mr. Larzaleer or myself, we did not read them, but took the announcement as made by the judge, and then numbered and strung them; I numbered and strung the Democratic solid tickets, and Larzaleer numbered and strung the Republican solids; if a ticket, when taken from the box, was announced as a "split ticket," it was put into a hat by the side of the box; these split tickets were not read, they were simply announced as such, and thrown into the hat; no, I may be mistaken; I think the split tickets were read as they came out of the box; no, I recollect now that they were thrown into the hat; after we had got through counting, numbering and stringing the solids, the split tickets were counted, numbered and strung; I numbered and strung the Democratic splits, and Mr. Larzaleer numbered and strung the Republican splits; the judge, in counting the split tickets, read all the names; sometimes, however, he would say, give all the Republicans or Democrats *one*, except such a candidate, as the case might be.

*Question*—Did you and Mr. Larzaleer again separately read these split tickets, or take the reading of the judge as correct, and simply number and string them?

(Objected to by Mr. Lathrop, as a leading question.)

*Answer*—I took the announcement of the judge as correct, and numbered and strung them.

There were three rejected tickets, I think; these were double ballots, and were rejected as such; the rejected tickets were not strung, they were tied on a list by themselves, being marked "rejected;" there was a council notice to Charles Lippincott, which we considered as no vote or ballot without being counted or rejected, and which we put back into the box, in order to keep up with the poll list; we did not mark it "rejected;" I never before acted as an election officer; the mode of counting which I have described is the mode pursued at elections held in the city of Burlington, since I have lived here, nearly thirteen years; J. Russell

Batten, the clerk, kept the tally list at the last election; the tally list was not compared or counted up during the count, except that the word "tally" was occasionally used; when the tally list was completed, it was not examined by me or the other judges; Larzaleer sat at my side all the time; we took the count as announced by Mr. Batten, as correct; having gone over the tally list and counted it up, there was an announcement of the result on one part of it by Batten, the other by Lippincott; the result having been announced, the ballots, tally list and poll book were put into the ballot box and locked up, with three keys; the judge had one, I had one, and Larzaleer had the other; I think I locked it last; I had the small key; I took charge of one key, and Lippincott took charge of the ballot box; I suppose that Larzaleer took charge of a key, I saw him put it in his pocket.

*Question*—Was there an adjournment over till the next morning, for the purpose of a recount, and if so, when, by whom, and in what way was it made?

(Objected to by Mr. Lathrop, as a leading question.)

*Answer*—Mr. Lippincott announced that we would meet the next morning, at half-past nine o'clock, for the purpose of having a recount, in the council chamber.

This announcement was made publicly, and was made just at the time the ballot box was locked, and I am under the impression that Batten repeated the announcement; the certificates of the result of the election were made out and signed the next morning, after we had finished the recount; I know that none had been made out until they were made out in the council chamber.

*Question*—Do you know whether it has been the custom in Burlington for several years past to adjourn over for a recount?

(Objected to by Mr. Lathrop, because the question is leading, and illegal in itself.)

*Answer*—It has, ever since I have been in Burlington, for twelve or thirteen years.

I can specify once when I was elected to the city council by a recount; it was announced the night before as a tie between Mr. Lanmaster and I; I was elected the mayor of the city one night, and defeated the next morning by a recount; I am under the impression that Silas Coleman was once elected assessor, and defeated the next morning by a recount; this custom of a recount has extended to both the State and city elections; I have never known these adjournments for a recount to be objected to before.

*Question*—When, then, did you consider your count at the last election completed?

(Objected to by Mr. Lathrop as being illegal.)

*Answer*—The next morning, when we made out our return.

As soon as we considered our count completed, we made out our returns.

(Mr. Lathrop objects to all the testimony relating to the recounts and the custom of recounting in the township of Burlington, as irrelevant, illegal, and not embraced in the notice given by the respondent to the contestant.)

The people began to leave after the announcement was made; there was a good deal of confusion; I suppose there were twenty or thirty there; I suppose that there were twenty or thirty persons at the recount; Mr. Lippincott, at the recount, asked those of the other party to assist; Mr. Stiles and Mr. Naylor came forward; Mr. Lippincott asked Mr. Naylor and myself to count the Union tickets, as I had counted the Democratic tickets the night before; I went over all the Republican tickets; I found three splits among the solids, with Stokes' name pasted over Lathrop's; I have no recollection of the numbers of the tickets; these tickets had been counted as solids the night before; they were counted for Mr. Stokes as soon as we found them; these were the only errors we discovered in the Union solids; I am under the impression that we discovered one error in the Union splits, but I forget the particulars; I only know that an error was discovered in the Democratic solids, by hearing them say on the other side that there was an error in favor of Mr. Lathrop; having discovered these errors, we called to the clerk to make the corrections in the tally list; Mr. Batten had charge of the tally list the next morning; having made these corrections, there was an announcement made of the result; the certificate was made out and signed by us, in accordance with this announcement; I never heard of a ticket with Levi French's name for Assembly being found among the Democratic solids; I mean I did not hear of it that morning; having made and signed the certificate, the ballots, tally lists and poll book were put into the ballot box again; I think I gave my key to Mr. Batten; I suppose the other judges did so also; I heard him say that he had the keys; I do not know who took the box; my official duties were then ended; directly after I locked the box on the night of election, I left and went down to Miller's segar store; I smoked a segar, and then to Dr. Hollembach's office; after I had been talking some time with Mr. Miller and the Doctor, Mr. Batten and Mr. Lippincott, with the ballot box, came in; it might have been a few minutes difference in the time of their coming in; Lippincott held the box in his hand, or sat on it, he never let go of it; I can only fix the time from a remark made by Wetherill, who asked Lippincott "what time was it;" Lippincott answered, "half-past eleven;" this was when they first came in; I suppose I remained there twenty minutes or more; Lippincott was about going, and I said I would go with him as far as my home; he said he was glad of it, he liked to have company; when I got home, I said I would go down with him, perhaps the taverns were open, and we would take a night cap; Lippincott turned the corner and



was on his way home, and nearly there, when I called him back; we came to Kinsey's; the bar-room was full of men; he sat the box on a table in front of the bar, and we took a drink; there was a good deal of noise in the bar-room, and Mr. Kinsey invited us into the parlor; we slipped in, one at a time, to get rid of the noisy party; I saw no more of the ballot box until I was called out of this room afterwards by Lippincott; he then had the ballot box in his hand, and went around home with it; I went with him to his house, and left him at the door; Mrs. Lippincott came down and let him in; I did not see her; I met some friends at the corner, and invited them to come down here and get a drink; it was election night; I went home after that; I recollect a conversation with Mr. Roberts, after the election, about the ballot box.

*Question*—Did you tell Mr. Roberts that you saw nothing of the ballot box that night, after Mr. Lippincott put it in Kinsey's bar-room on the table, until the next morning?

*Answer*—I did; Mr. Roberts told a very straight yarn; he repeated almost all that was said, with some few mistakes—a man can't help that.

Mr. Roberts came to me and asked me the particulars; I told him all that I could recollect, without being able to recall all, until circumstances were brought to my mind by others; the next I saw of the ballot box was when I saw it going up the street the next morning; it was taken to the City Hall; I was there; I found the box locked, and assisted to unlock it, having had my key; Lippincott and Larzaleer each had a key the next morning; my key had not been out of my possession from the time of locking the box, on election night, until I handed it to Mr. Batten, after the recount the next morning; I have no knowledge or information of the ballot box being opened, or its contents being disturbed, between the time when it was locked on election night, and its being opened for the recount the next morning.

*Question*—So far as you know or believe, had it been opened or disturbed?

(Objected to by Mr. Lathrop, on the ground of belief.)

*Answer*—I do not know, and I do not believe that the ballot box was disturbed from the time it was locked until the next morning; I do not know that there were any alterations in the tickets after they were deposited in the ballot box.

*Question*—Are they, so far as you know, the same now on their face as when deposited?

*Answer*—They are, so far as I know.

*Question*—Do you know of any mode by which that ballot box could have been opened without your knowledge.

*Answer*—No, except by picking the lock; I found my lock fast the next morning.

*Question*—On the night of the election, did you come out of



Kinsey's hotel and walk up the street with Mr. William Larzaleer?

*Answer*—I did not; the only time I came out was when I went out with Mr. Lippincott.

*Question*—Did you then, or at any other time, say to Mr. William Larzaleer, or any other person, "Mike can fix all that right; he can do it better than we can?"

*Answer*—No; I was not with William Larzaleer that night, alone, for a half minute, and I made no such expression to him or any other person; that expression was manufactured for the occasion.

I recollect the fact that the Lippincott council notice was taken out of the box; Lippincott, the judge, showed it to me and then put it into the hat with the split tickets; it turned up again when we counted the split tickets, and was put into the box, as I have before stated; I recollect that Mr. Burling kept a tally list that night when we were counting.

*Question*—Has he at any time since that time told you that he had altered his tally list, and if so, when?

(Objected to by Mr. Lathrop, because when Mr. Burling was on the stand his attention was not called to the alleged conversation.)

*Answer*—He never told me that he had altered his tally list; he told me, on the evening of the day he testified, that he had revised it, he did not say when; he said that he had got tangled a little on the splits, and that he had revised it, and now it agreed with the clerk's.

I have seen the figures in pencil on the right hand lower corner of the official tally list spoken of by Mr. Roberts; I do not know when and by whom they were made.

*Question*—On the morning of the recount at the City Hall, did you hear anything said openly and publicly about those figures?

*Answer*—I heard Mr. Batten say to Mr. Keegan that he must not disfigure his tally list; it was in the early part of our getting there; I think it was while the count was going on; I am under the impression Keegan went away before we got through; we did not get through with the recount until nearly twelve o'clock.

I know George Taylor, spoken of by Boyle; he is a very active member of the Republican party; I was present only a portion of the time when the count was made at Lippincott's by the League committee; I did not participate in it, because when they came there I told them that there was a report about the ballot box and manipulating the tickets; that I had offered to Dr. Pugh to assist him and any other gentleman he would appoint to investigate this matter, and after investigation thought no authority was given by law to handle those tickets; all I ask, if you find everything right, is to certify thereto, and relieve us of the odium of the report going abroad; Dr. Pugh said nothing; Mr. Roberts said no, and Mr. Watts said, in a very aggravating way, "no, we are going into

that box, and are going to examine it;" I then said that I would have nothing to do in the matter, if they were not going to do me justice; Mr. Watts said that they did not know me in the matter, only the clerk.

The further taking of testimony was here adjourned until Friday, January 29, 1864.

FRIDAY, JANUARY 29, 1864.

Parties present as before.

Hamilton McDowell, a witness on the part of the respondent, being cross-examined, said: We finished counting off about ten o'clock on the night of election; there might have been a couple of hundred of people present when we got through counting; I cannot form a correct idea of the exact number; I cannot recollect how long after we got through counting it took to foot up the tally lists; I cannot tell exactly how long after we had finished counting that the announcement of the result was made, it might have been twenty minutes or half an hour; I cannot recollect now which result was announced by Mr. Batten, or which by Mr. Lippincott; I cannot tell exactly how many persons were in the City Hall when the result was announced, there may have been one or two hundred; I remember that John Larzaleer, Levi Kemble, Stevenson, the janitor, were there; these are all whom I can name, now, except Jonathan Roberts and Watts, who were engaged in keeping the tally; I remained there but a few minutes after the result was announced; as soon as I locked the box I went away; I made some figures after they announced it; I was summing up the returns, as near as I could calculate, from what they were reported by the two judges, on our own count; I made the figures upon a piece of paper; I have not the paper, I left it on the table in the Hall; I found out that I made a mistake; Jonathan Roberts asked me what I made the majority for Lathrop; I said one hundred and sixty-eight; some friend then told me, some minutes after, that I had made a mistake, that I had not given him enough; I did not correct the mistake, I paid no more attention to it; I cannot tell what was the majority for Mr. Lathrop over Mr. Stokes, as announced that night; I do not recollect how many votes were given to Mr. Lathrop that night; I do not know, of my own knowledge, what Mr. Lathrop's majority was by the vote as announced that night; I learned from some persons that it was one hundred and sixty-eight, and from others that it was one hundred and seventy-five; I cannot tell from whom I learned that the majority for Mr. Lathrop was one hundred and sixty-eight; I cannot name any particular individual from whom I heard it; there was a crowd there talking; I recollect hearing it

from Mr. Fenimore and some gentlemen from Springfield; they said they heard it from Col. Wall; I did not state in Mr. Kinsey's bar-room that Mr. Lathrop's majority was one hundred and seventy-five, that I recollect, nor did I state it anywhere else, that night; I said that I had made the majority one hundred and sixty-eight, and they told me that I was mistaken, that the majority was one hundred and seventy-five; in counting the votes that night at the City Hall, Mr. Lippincott was between the table and the wall, about two feet from the wall; no one could read the tickets as Lippincott took them from the box, unless he was behind Lippincott; he laid them upon the table after he had read them, the table was moved back after the poll was closed, to keep the crowd off their shoulders, and to keep persons from getting behind; after Lippincott had read the tickets he threw them down upon the table; sometimes they would fall with the face up, and sometimes with the face down, just as it happened; they were thrown to Mr. Larzaleer or myself; we would turn the ticket over and string it; he would throw a Republican ticket to Larzaleer, and a Democratic ticket to me; it has been the custom in Burlington, ever since I have been here, to string the tickets on separate strings; this has been for nearly thirteen years; I have been in the habit of going there to see the count; from this I say that when I have been there this has been the custom; I cannot tell how often I have been there; I cannot make any calculation; it has been at nearly every election; when the ticket was passed to me by the judge, I did not examine it, I had not time; when he would pull a ticket from the box he would say "Republican," and throw it down, "Democratic," and throw it down; it was done so fast that he would get ahead of us in numbering.

*Question*—Does not the law require each of the three judges of the election to examine particularly each ticket taken from the box?

(Objected to by Mr. Stokes, because the witness is not called upon to testify as to what the law is, the law will speak for itself.)

*Answer*—I believe that it does, and we did so before we made out our certificate; on Wednesday morning I examined closely the Republican tickets, and Larzaleer the Democratic tickets; I did not examine carefully all the tickets on Wednesday morning, I mean the Democratic tickets; I just ran over them; I examined the law to see what my duties were.

*Question*—Does not the law require that one of the judges, to be selected by the three, shall take each ticket from the box, as soon as the polls are closed, shall read the names upon it, and hand it to one of the other judges, whose duty it shall be to examine it with a view to see whether it was correctly announced by the judge, and number it, and pass it to the remaining judge, whose duty it shall likewise be to examine it and string it?

(Objected to by Mr. Stokes, upon the same ground as the previous question.)



*Answer*—I believe that that is the substance of the law ; I have read it but once ; this requirement of the law was carried out on the night of election, as near as we could do it ; judge Lippincott did not read aloud each name upon each ticket as he took it from the box ; he did not hand each ticket as he took it from the box to me, nor to Mr. Larzaleer ; neither Mr. Larzaleer or myself examined each ticket after it had been examined by the judge ; neither Mr. Larzaleer or myself numbered all these tickets ; neither Mr. Larzaleer or myself strung all these tickets ; we complied with the requirements of the law, by following the custom, in counting, which prevails here ; we did not have to stop several times that evening to see whether Mr. Larzaleer and I agreed in our numbering ; we stopped once or twice when we got wrong in our numbering ; for instance, I might have numbered a ticket 125, when it should have been 225 ; when I discovered this error, by numbering several tickets, I would ask the judge to stop until the error was corrected ; this was by no concert between Mr. Larzaleer and myself, but each did it for himself ; there was no comparison with the tally list of the clerk when these mistakes were corrected ; I do not recollect whether Mr. Larzaleer and myself added our numbers together, to see whether the aggregate agreed with the tally list kept by the clerk ; I am quite sure that Lippincott put the council notice which was voted into the hat ; I think that it has been the custom in Burlington for thirteen years, or thereabouts, to have a recount on the morning after every election which has been held—that is whenever I have been there ; I know I have been to a great many of them ; I mean by a recount, that they make out the certificates the next morning, and go over the tickets before they make it out.

*Question*—So far as you know, has it been the custom in Burlington for the last thirteen years, for the election officers to meet on the morning after the election and recount the ballots ?

*Answer*—What they call a recount is just running over the ballots, it is not a thorough recount ; not at all times, when there is a large majority on either side, they are not so particular ; there was an unusually large majority on one side in our township in this instance ; we were so particular in this instance, because a large majority in this township would not make a large majority in the district ; when we left the City Hall that night, we did not know who had been elected to the Assembly from this district ; I cannot name any particular occasion, at this moment, when I was present at a recount after a State or county election ; I think at the time John Higbee was elected, a year ago last fall, there was a recount ; I think at both his elections, they counted over again, in the fall of 1861 and in the fall of 1862 ; I think I was present part of the time at these recounts, in the fall of 1861 and 1862 ; Mr. Lippincott was the judge ; I am under the impression that



Michael Keegan was assessor in 1861, and Henry Lowden in 1862; I forget who was collector, and who was clerk; Charles Myers was township clerk, but I forget whether he acted or not; I cannot name now any other occasions when I was present at a recount; there was no dispute about Mr. Higbee's election, either time he ran; I did not remain all the time at these recounts; I did not take much interest in it, it was pretty much all one-sided, all on Higbee's side; I cannot tell why they recounted; they recounted to make out the certificate the next morning.

*Question*—Was not the custom to which you refer of adjourning over until the next morning, solely for the purpose of running over the tally list, and signing the official statement, and is not that all which is done upon these occasions?

*Answer*—I was not an officer of the elections on the occasions referred to, consequently I cannot tell what was the object; I know that they run over the tickets; I have seen them counting the tickets—not all, I mean, I was not there long enough; I did not remain; at the time when W. R. Allen and I were opposing candidates for mayor, they did not go right on and count the tickets over again; they adjourned; this was six years ago last spring; at the first count they counted all night, I believe—I was not there—and got through about four o'clock in the afternoon of the next day; I do not know when the second count took place, for the individuals who counted never let us know any particulars; I am under the impression that Parrish Naylor, Lewis Lippincott and Nelson Deacon were the officers of that election; I was elected the day of the first count; it was announced the next day that I was not elected; they never let us know the time and place of the recount; the first count did not show that Mr. Allen was elected by a small majority—of this I am positive—and there were nine tickets in the box over and above the number on the poll book; at the recount, after the election last fall, we did not confine our investigations to the members of the Assembly altogether; we ran over the solids, to see that there were no splits among them; our attention was not particularly directed to the splits upon the Assembly; we wanted to see that there were no splits of any kind among the solids; we did not find any errors, so far as the other candidates were concerned; Mr. Batten had the tally list on the table, and when we found a mistake, we told him to correct it; he did not keep a new tally list that morning; I know that there were some tickets found with the name of Reading Frake upon them, for coroner; these tickets were not counted for him, because he was not considered a candidate; there is not anything in the law which give the election officers discretion to determine who are, and who are not candidates, but sometimes the name of the vilest prostitute in the town is put upon a ticket by the side of one of our best citizens, and the officers take the responsibility: Read-

ing Frake is not a person of that character—I said that only by way of illustration; these tickets with Frake's name upon them, were not counted for coroner, for any one—at least that is my impression; I do not recollect seeing the ticket with Levi French's name upon it, except at the commencement of this examination; I may have seen it at the examination at Mr. Lippincott's house, but I do not remember it; I recollect hearing it spoken of there; I thought that they examined the Democratic solids very carefully that morning, and it was not then discovered; I believe that it is a full printed ticket; in going over what were considered to be the Republican solids, we found the three tickets with Mr. Stokes' name pasted on them; I did not see that they were splits, the moment I put my eye upon them; I read over every name upon the ticket, to see that it was all right, as I went along, and then passed it to Naylor; the first one I passed after reading Stokes' name, without thinking I passed it along as a solid ticket; in a moment I reflected that Stokes was the other candidate, and called it back; the split on each of those tickets is not the most prominent part of it; I do not know that the name of Jarrett Stokes on those tickets is in larger type than the rest of the tickets; I never examined them; there were not many persons present when the announcement was made that there would be an adjournment until the next morning; there may have been twenty or thirty persons there; John Larzaleer was there; Levi Kemble, Samuel R. Stevenson, Paul Early, were there, and others, whose names I do not recollect; Mr. Lippincott said that we would adjourn until half-past nine o'clock the next morning, for the purpose of a recount, and making out the official statement; Lippincott did not consult me, that I recollect, except to ask if the hour would suit me; I had a doubt as to the correctness of the count that night; I always have doubts as to the correctness of my count; the City Hall, where the election was held and the tickets were counted, is lighted by gas at night; I first heard the returns from Springfield township about half-past eleven o'clock, at Dr. Hollemback's office, from Thomas Wetherill; Dr. Hollemback, George I. Miller, Benjamin Lippincott, Batten and myself, were present; there were no calculations made then by any one to see who was elected to the Assembly; I think that then we had the returns in from all the townships of the district; there was nothing said by the persons then as to who was elected to the Assembly, except that it was going to be a very close election; the majorities reported were not added up; there was only a general conversation among those present upon the subject; no calculation was made; it was not conceded that as the vote then stood, Mr. Lathrop was elected.

*Question*—Did not the majorities from the several townships in the district, as reported that night, show that Mr. Lathrop was elected?

*Answer*—The reported majorities differed in the opinion of the people ; some said that it was a tie, and others said that Jarret Stokes was elected by two or three ; I do not know whether I heard that Lathrop was elected, some said so, others said that Stokes was elected, and they would argue the point ; I remained in Dr. Hollemback's office some twenty or twenty-five minutes after Lippincott came in with the ballot box ; it must have been very nearly twelve o'clock when I left the office ; Lippincott left with me, no one else ; I am under the impression that Wetherill, Batten and the others I have named, remained at the office ; we came immediately to Kinsey's hotel from the office, except the time when he, Lippincott, started for home, and I called him back ; that did not occupy more than a minute ; we first went into the bar-room, it was in the neighborhood of twelve o'clock when we got there, it may have been a few minutes before or after, I only judge from the time occupied in talking at Hollemback's office ; I saw in the bar-room, Nathaniel Fenimore, George Wetherill, Christopher Wetherill, son of Alexander, George Horn, there were some twelve to eighteen whom I knew there ; I have named all whom I recollect ; I was not many minutes in the bar-room when I went out, remained a few minutes and then returned ; I was there, perhaps, five minutes before going out, no one went with me when I went out, I returned alone, I was gone two or three minutes, long enough to go over to Kelly's and back ; I remained in the bar-room perhaps ten minutes when I returned ; I took three drinks at least during the evening ; I saw a number of persons at Kelly's, the bar-room was full, I saw William Larzaleer, Jarrett Stokes, Israel Stokes, and others ; I spoke to Jarrett Stokes ; it was my business in going over to ask him to come over to Kinsey's to see these gentlemen from Springfield, they having asked whether he was in town, and I volunteered to go after him ; Mr. Stokes came over, not with me however, he followed shortly after I returned ; I do not know that any one in particular came with him, a great many came in at the time he did ; after leaving the bar-room I came into the parlor where we now are ; this was some time between twelve and one o'clock, no one came in with me ; there were in the parlor when I came in, Nathaniel Fenimore, David P. Lukens, George Smith, Christopher Wetherill, and several others whose names I do not now remember ; I do not recollect any persons in particular who came in after I did, there were several, however, they were coming in and going out, I forget whether Jarrett Stokes came in the parlor, I am under the impression that he did ; I did not see Mr. Lippincott in the parlor at all ; I do not recollect that Mr. William Larzaleer was in the parlor, I saw him in the bar-room, Mr. Batten was in the house, but I do not recollect seeing him in the parlor, I saw him some time during the night, I do not recollect seeing Michael Keegan here, I saw him at Kelly's and saw him some time afterwards in the street, I saw him in the bar-room, not in this room ; I saw Keegan at the corner of Pearl street, somewhere about half past one when I returned from Lippincott's, I do not recollect who were coming in and going out of the parlor ; I was in the parlor half an hour or three-quarters ; we had a long con-



versation, I talked with Mr. Fenimore, the conversation was general ; the ballot box was out of my sight for three-quarters of an hour, I suppose, after I came into the house ; it may have been longer than that ; the box may have been opened with a duplicate key without my knowing it, I do not know whether the lock might have been opened by a wire ; I had not forgotten that I had gone home with Mr. Lippincott, but it did not occur to me when I was talking with Mr. Roberts ; I am quite sure that I did not lend that little key to any one after I got done here that night ; I am not certain that it was not taken from my pocket and put back again ; a person might have picked my pocket, but it seems almost impossible ; I think I would have caught him either taking or returning it ; I did not leave this room with any one, I was called out and found that it was Lippincott who wanted me, I cannot say certainly whether it was Lippincott who called me or not ; I found Lippincott standing at the front door with the box in his hand ; I do not know whether any person was with him or not ; there was a person standing in the door leading from the bar-room into the hall ; I do not know whether this person whom I do not recollect, or Lippincott, called me ; I suppose I did know him at the time, but I do not recollect his name now ; this was some time between one and half past one o'clock, we went immediately out ; several gentlemen came out of the parlor and asked a question, I told them that I would be back in a few minutes and started off ; I think some of the Wethrill boys came out and asked a question, I do not recollect what it was, it made no impression ; Lippincott asked me to go around as far as his house, which is about a hundred or a hundred and fifty yards from Kinsey's hotel ; I did not go into his house ; he did not give any reason for asking me to go with him ; we talked about matters and things on the road ; I suppose I might have been two or three minutes going to his house ; I forget whether I met anybody in going from here to Lippincott's house ; I am under the impression that I met Keegan at the church corner, at Pearl and Main streets ; no one was with him when I met him ; I had no talk with him ; there were two or three on the corner when I came back, Keegan, Thomas M. Richardson and Israel Wooden, I think ; I stopped and asked them down to take a drink, they came, I remained here but a very few minutes that time ; I think it was pretty nearly two o'clock when I got home that night, I saw Mr. Jarrett Stokes shortly after I came into the parlor ; he went out with some other parties and I saw nothing more of him that night.

*Question*—When you stated to Mr. Roberts that you did not see the ballot box from the time it was put in the bar-room, on Tuesday evening, by Mr. Lippincott, until the recount the next morning, was that your recollection at the time you made the statement ?

*Answer*—Of course it was, or I should not have made the statement ; but I want to qualify that by saying that had Mr. Roberts asked me whether I went home with Mr. Lippincott when he had the ballot box, I would have said yes ; I would then have recollected it ; Lippincott told me what Roberts said, and then I remembered that I had made the statement erroneously ; Lippincott told me a day or two afterwards.



*Question*—You stated, upon your examination in chief, in relation to your conversation with Mr. Roberts about the ballot box, that you had forgotten some things until you had talked with half a dozen different persons; please state who those persons were?

*Answer*—There might have been half a dozen, or three or four persons present when Lippincott told me about what Roberts said; I told him that I recollected it; that if Roberts had asked me about going home with him, I should have told him that I did; Batten was present, and some others, I forget who they were; I do not know the precise time when I heard Batten talking to Keegan about the tally list; it was some time during the morning; some one made the expression that Batten was getting touchy about his tally lists; I think it was Marshal Wright; I think that any person in the room might have heard Batten, he spoke quite loud; when Lippincott and I went from the hotel that night, I do not recollect that we stopped on the way at all; all the election officers are Democrats.

*Question*—Were there not two indictments found against yourself and others, by the Grand Jury of this county, at the last December term of the court, for frauds alleged to have been perpetrated by the defendants named in the indictments in connection with the November election, and are not those indictments still pending?

*Answer*—All I can say about that is that on the oath of Jonathan Roberts that I had committed this fraud, notwithstanding two days before he told me that he did not believe me guilty of anything of the kind, neither I nor any of the rest of the judges, I gave my security for my appearance at Mount Holly court on that oath; I was told that there was a bill found, but do not know anything about it; I only know what I have been told; I left all to my lawyers.

*Question*—Did you not, at the last December term of the court, enter into a recognizance with security for the purpose of removing these indictments into the Supreme Court of New Jersey?

*Answer*—Yes; and those indictments are still pending.

Examination in chief resumed—*Question*—Do you know the political complexion of the Grand Jury which found these bills?

(Objected to by Mr. Lathrop as illegal.)

*Answer*—I do not, of my own knowledge, for a certainty; from what I have understood, they were, with one exception, Republicans.

The table where we were counting the votes, in the City Hall, that night, was lighted by a couple of tallow candles: the gas lights are too far off, and we had the candles to assist us; the light from the gas, without the candles, was not sufficient to light the table so as to read distinctly; I did not have to read myself, and cannot state whether the light was sufficient; during the progress of the count we had to call for the constables to preserve order in the Hall, several times; Lippincott appealed to the people to be quiet, that there was so much noise that it was impossible to go on with the count; I think that Batten did so several times; they stopped counting once or twice for a few moments each, in order to have quiet restored; I did not see any attempt upon

the part of the judge to conceal any ticket, everything was done openly ; any one could have picked up a ticket from the table after they were laid down.

*Question*—Was the mode which you adopted of counting the solids first and then the splits, and of stringing and numbering them on different strings, as you have described, the customary mode of counting in Burlington, or did you adopt some new plan ?

*Answer*—It was the customary mode of both parties in Burlington.

*Question*—Did you suppose that such mode of counting was a substantial compliance with the law, or was it in evasion of the law ?

*Answer*—I supposed that it was complying with the spirit of the law, if not to the letter.

When the persons were coming in and going out of the parlor at Kinsey's hotel, they did so at their pleasure ; Mr. Michael Keegan, whom I met at the corner of Pearl street that night, is one of the police of the city of Burlington, night police, and was so at the time of the election ; I might have had a conversation with Keegan that night in Kinsey's bar-room, after the count, none, however, that I specially remember, and nowhere else, except as I have here stated ; I put the key of the ballot box in my vest pocket that night ; I found it there when I had occasion to use it ; I was awake while I was here in the parlor ; I am more certain that a person could not have taken the key from my pocket without my knowledge, than that they could ; it is not impossible, but improbable ; I was subpœnaed by Mr. Lathrop as a witness in this case ; I attended two days for him ; I was not called as a witness.

Being cross-examined again, says : In addition to the gas lights, we had two candles upon the table which was upon the platform at the City Hall ; the platform is about twelve or fifteen feet wide ; the gas lights are on the wall at either end of the platform, about seven or eight feet above the platform ; the judge, in counting the tickets, stood up ; he was between and in front of these two gas lights ; I am under the impression that there are two burners upon each bracket ; they extend some ten or twelve inches from the wall ; the judge stood about two feet from the wall ; I am now under the impression that our mode of counting was a substantial compliance with the spirit of the law ; the City Hall, where the election was held, I suppose is fifty feet wide ; the platform is nearly square ; the space between the gas brackets is twelve or fifteen feet.

H. McDOWELL.

Sworn and subscribed January 29th, 1864, before me.

JOHN RODGERS, *M. C. C.*

Charles Hutchinson, a witness produced on the part of the respondent, being duly sworn, says : I reside in Beverly ; I voted at the last November election.

*Question*—Was your residence then at Beverly ?

(Objected to by Mr. Lathrop as leading.)

*Answer*—It was ; my residence for the year next preceding the election had been part of the time in Trenton ; my residence at the election preceding that one was in Trenton, New Jersey ; I have resided in Beverly, and considered it my home, for the last seven years : I have not voted, or attempted to vote, in any other location ; that is all I have to say on that point, unless you want me to state a conversation I had with Mr. Lathrop.

*Question*—Had you at any previous time gone from your residence at Beverly and taken your family, and if so, state for what purpose you went, and how your family came to go with you ?

*Answer*—In the month of November or December, in 1861, after the war broke out, I had an engagement in Philadelphia that prevented my returning more than once a week, and sometimes not that : my family came to the conclusion to remove to Philadelphia until that was closed : they did so, and then returned to Beverly as soon as they could take the house.

*Question*—When your family were in Philadelphia, as you have stated, where did you consider your residence, or legal home ?  
(Objected to by Mr. Lathrop.)

*Answer*—In Beverly ; the engagement I had, which is referred to, was with Mr. Distin, to mount swords : the fulfillment of that engagement was the only object which I had in going to Philadelphia : the reason why my family did not return to Beverly after filling this engagement, was because my house in Beverly was occupied, and we could not immediately get in ; when I went to Philadelphia I did not take all of my furniture with me ; I left some machinery and some tables, chairs, oil cloth, bath tub, I cannot enumerate any other articles ; there was a desk, I believe ; the oil cloth was left on the floor ; my object in leaving these articles was because I did not intend to leave New Jersey, and so stated to persons who were there : my vote was not challenged at the election ; I was present when the vote was counted at Beverly ; I kept a tally list ; I do not know that any one else kept a tally list except the official tally list kept by Mr. Fenimore, the clerk ; I stood behind him ; my tally list did not correspond with his ; he had two more majority for Mr. Lathrop than I had ; I told him where he made the mistake : it was by calling off the tickets laying them down upon the table, and before he could tick them off another was called.

Adjourned until Saturday, January 30th, at the same place, at 10 o'clock, A. M.

SATURDAY, JANUARY 30, 1864.

Parties present as before.

Examination of Charles Hutchinson continued—When I called the attention of the clerk to the mistakes made in the tally list, he replied that he believed that he was right ; I told him that he was not, that while they had stopped numbering the tickets to sharpen their pencils, he had omitted to put one down each time.



(Mr. Lathrop objects to all conversations between the witness and the officers of the election.)

After the count was over, they announced the result as giving eleven majority for Mr. Lathrop ; I told them that it was only nine, and a person of the other party who had kept a tally also said that it was only nine ; the clerk and one of the judges, I think, said that it would not make any difference, that that could be rectified in the recount the next morning ; the announcement was made of the other person as Mr. Linton's ; it was either Mr. Farnham or Mr. Linton, I do not recollect which, it was one of the two, I think ; I did not know until then that Mr. Linton was there.

Being cross-examined, says : I have not the tally list which I kept at that time ; I only kept it that day on the outside of an envelope ; I do not know what became of it ; it is very likely that I tore it up ; I cannot say when I last saw it ; I think I have not seen it since the election ; I said yesterday that I did not know that any one else kept a tally list except the clerk and myself ; I did not think of it yesterday ; it afterwards came to my recollection ; I do not now know of it from my own knowledge, only from what I heard ; I have a wife and six children ; I had nine children at that time ; I think my family moved down to Philadelphia in December, 1861 ; they went to New Market street ; I rented a house there ; my family and I rented, occupied and kept a house in New Market street, in Philadelphia, after we left Beverly ; we lived in New Market street about three months ; we then moved to Marshall street, having rented a house there by the month ; they occupied the house in Marshall street until the month of April, 1863, when they came back to Beverly.

*Question*—So that you and your family were absent from Beverly, from the month of December, 1861, to the month of April, 1863 ?

*Answer*—We were, excepting our visits there ; of course we were there, some of us, repeatedly ; during a part of this time I was not engaged in superintending some business for Mr. Broomhall, in Kensington ; I have not at any time been engaged in business for Mr. Broomhall in Kensington ; during the time, or a part of it, while we were in Philadelphia, we took boarders ; before leaving Beverly, in December, 1861, I had a public sale of odds and ends, some garden things and rubbish, which a man wants to get out of the way sometimes ; I did not sell any of my household furniture ; I sold spades, shovels, hoes, and such like ; the articles which were left in Beverly, of which I spoke yesterday, were not articles which had been sold and not taken away by the purchasers ; I rented my property in Beverly to Mr. Henry Stevens, for one year, I think ; I rented it to him in December, 1861, I think ; I did not rent it at all myself ; my wife rented it ; I did not advertise the property for rent or sale in the Public Ledger in Philadelphia, nor in any other newspaper ; of this I am positive ; it was not advertised by any one, so far as I know ; I went to Trenton in about July or August, in 1862, as far as my memory serves me ; I did not take my family with me ; (the witness said), I will qualify that by saying that I endeavored to



obtain a house for them at their wish, but could not ; I boarded while I was in Trenton ; I remained there until about the first of January, 1863 ; I then made arrangements to go to Bridesburg, but did not ; I went back again to Philadelphia ; while I was at work in Trenton I was in the habit of going to my family once a week, sometimes not so often ; I am pretty certain that I paid a poll tax in Beverly in 1862, I am not positive, but I think I did ; I did not pay a tax in Philadelphia during the whole time I was there, I was not assessed ; the number of my house in New Market street was between 590 and 600, I think ; it was right on the corner of Ellen street ; I do not know what ward it is in, nor do I know what ward the Marshall street house is in ; the number of that house is 516, I think ; I voted for Mr. Jarrett Stokes for Assembly at the last election ; I took an active part for the Democratic ticket ; I am a native of England ; I am a naturalized citizen ; I was naturalized in Philadelphia, in 1836 or 1837, I think ; my papers are in Beverly ; I am in my fifty-third year ; I am not now engaged in any business ; I have been out of business about two weeks ; before I went out of business I was engaged in furnishing the officers of the Invalid Corps at Washington ; I do not know where my receipt for taxes in Beverly for 1862 is ; it is probable that I have it ; if I can find it, I will send it up here.

Examination in chief resumed—*Question*—What was your object in going from Philadelphia to Trenton ?

*Answer*—I had made an engagement with Messrs. Field and Horton there, to grind gun barrels.

*Question*—Did you go there for the purpose of making it your permanent residence ?

*Answer*—No, sir.

*Question*—While there, what place did you consider to be your permanent and legal residence ?

(Objected to by Mr. Lathrop.)

*Answer*—Beverly, New Jersey.

C. HUTCHINSON.

Subscribed and sworn January 30th, 1864, before me.

JOHN RODGERS, *M. C. C.*

Benjamin F. Lippincott, a witness produced upon the part of the respondent, being duly sworn, says : I reside No. 9 Pearl street, Burlington ; I have resided in Burlington thirty-five years ; I was the judge of the election held in the city of Burlington, on the third of November last ; my associate judges were William Larzaleer and Hamilton McDowell, Mr. Batten was clerk ; I have been elected judge of the election in Burlington for three years ; I had acted as assistant judge by special appointment for seven or eight times, may be more ; the election on the third of November last, was held in the City Hall ; after the close of the election, I assisted in counting the votes, the other elected officers I have named, also took a part in the count at the City Hall ; we began the

count about half past seven, I think, or about that time ; in conducting this count, I took the tickets from the box and announced the ticket ; if it was a Democratic ticket, I announced it such as a Democratic solid ; if we came to a split, would say it was a split, and put it in the hat ; when I announced a ticket a Democratic solid, I would hand it to Mr. McDowell ; if it was a Republican ticket, I would hand it to Mr. Larzaleer ; after we had got through with the solids, we commenced with the splits ; if it was a Republican split, I would hand it to Mr. Larzaleer to be numbered and strung ; McDowell and Larzaleer would number and string the tickets as handed to them on the same string as the solids, that is the Republican tickets on the Republican string, and the Democratic tickets on the Democratic string ; Mr. Batten, the clerk, kept the tally list ; after having got through with the count as I have described, the tickets, tally list and poll book were put into the ballot box and locked up ; we then announced that we would adjourn until the next morning to meet, recount and make out our returns as usual : I announced that we would meet the next morning at half-past nine o'clock in the council chamber, and Mr. Batten repeated it after me.

*Question*—Did you state for what purpose you would meet the next morning at half-past nine o'clock, and if so, what was that purpose, as stated?

*Answer*—To recount and make out our returns.

Before this adjournment, I had announced the number of votes which each candidate had received ; in making this announcement, I announced the Republican, and Mr. Batten, I think, the Democratic ticket.

*Question*—Was the mode which you pursued in counting the ballots the usual one in Burlington, or a new mode ?

(Objected to by Mr. Lathrop as leading.)

*Answer*—It was the usual mode.

*Question*—Do you know whether it has been the usual custom in Burlington to adjourn over and recount the votes, and if so, state how long it has been the custom ?

*Answer*—I do not know that I can tell the exact time ; for some seven or eight years that I have known of.

Before the adjournment I consulted with Mr. McDowell and Larzaleer as to the time to which we should adjourn ; in taking the tickets from the box, I took out a council notice of Charles Lippincott, I showed it to Mr. Batten and then put it in the hat with the split tickets ; I did not put that or any other paper which I took from the ballot box into my pocket ; I recollect Mr. Burling, a witness examined here, asking me what that paper was ; I told him that it was none of his business in a jokish way ; in making the count we rejected three ballots, besides this notice, because they had been voted double ; at the end of the count, the rejected-tickets were tied on the string, marked rejected ; the council notice we considered as a blank and put it back into the box.

*Question*—In reading and announcing what was contained on these

tickets as you took three from the box in the way you have described, did you aim to do so truthfully ?

(Objected to by Mr. Lathrop.)

*Answer*—Yes, sir.

We had a couple of gas burners behind us and a candle on the table to read the tickets by ; it was a middling good light ; after we had made the adjournment and locked up the box, I took one key, Mr. McDowell another, and Mr. Larzaleer the other ; I took the box and brought the box as far as Beldin's, stopped there a few minutes, then I saw Francis Roth who told me when I said I would like to see what was going on, to leave the box with Mr. Deacon until I got ready to go home, I took the box there and left it with Mr. Deacon ; I remained at Mr. Beldin's some twenty or twenty-five minutes, and was out about the door some time ; the box I suppose was at Mr. Deacon's for about an hour ; I got the box from the telegraph office, came out with the box to the corner and then I met Mr. Batten, who asked me if I was going home, I told him that I was ; he said he would go down with me as far as the mayor's office, Dr. Hollemback's ; when we got there, Batten went in, called to me and said that the Springfield boys were in there ; I then went in and asked Mr. Wetherill what the news was from Springfield ; he told me that Stokes had twenty-eight majority in Springfield ; I staid there I suppose some twenty minutes ; I sat on the box while I was there ; I then got up and came out ; Mr. McDowell said that he would go along ; I said that I would be gald to have company ; when we got opposite Mr. McDowell's house on our way down, he said that he would go as far as the corner of Pearl and Main streets with me ; I bade him good night at the corner, and had got part way home when he called me back ; I asked what he wanted, he said that he had seen a man came out of Kelly's and asked me to go down and take a night cap before he went to bed ; we then crossed the street, and in doing so we saw a light at Kinsey's hotel ; we then crossed back and came into Kinsey's, and I put the box on a table in the bar-room ; I leaned on the box while it was on the table ; McDowell asked me to take a drink ; I did so and then went back to the box ; the box remained there a short time ; then a crowd came in ; I took the box and went to Mr. Kinsey behind the bar and asked him if he had a safe place to put it ; Mr. Kinsey went with me and we put it behind the oyster bar ; Mr. Kinsey took a basket out, put the box under the bar and pushed the basket against the box ; it remained there until I took it home ; when I got ready to go home, I told Mr. Kinsey, and we went together ; he handed the box to me ; I started out ; I told Mr. McDowell that I was going home, and he went with me from Mr. Kinsey's to my house as far as the door ; I knocked at the door, my wife asked from the front window up stairs if it was me, I said that it was, she came down stairs and let me in ; Mr. McDowell bade me good night and left me ; I saw no more of him until the next morning ; I took the box into the house up stairs with me and put it under the bed, where it remained until the next morning, when I started about nine o'clock, and took it up with me to the council chamber for a recount ;



they there unlocked it and had the recount in the Council Chamber ; I suppose that it was from a quarter to half-past eleven when I took the box from the telegraph office where I had left it with Mr. Deacon ; I fix the time by the time when I arrived at Dr. Hollemback's office ; when I went in I was asked by Wetherill what time it was ; I pulled my watch from my pocket and answered half-past eleven ; it took me from five to ten minutes to go from the telegraph office to Dr. Hollemback's, I suppose ; when I gave the box to Mr. Deacon, I asked him to take care of it for me until I got ready to go home ; I had on previous occasions left the box in his charge or that of other persons, at the telegraph office ; I had never left it there for the whole night ; between the time I left the box with Deacon, and the time when I got it again, I was in and about Beldin's hotel ; I did not go below the railroad ; when I went into the telegraph office and asked some person there if Mr. Deacon was there, they said that he had gone home ; I looked into the cupboard where the box had been the year before ; the box was not there ; Mr. Harmer sat there ; he got up, opened the door of the closet where he was sitting, the box was there with an umbrella on it ; I picked it up and took it away with me ; Mr. Harmer was there when I put the box in Mr Deacon's possession ; I called Mr. Deacon to the door, he came ; Mr. Harmer sat in a chair in the far end of the room, about ten feet off, I suppose.

*Question*—Do you suppose that he was near enough to hear what you said to Mr. Deacon ?

*Answer*—No, sir.

When we got down to Mr. Kinsey's, there were several persons in the bar-room ; I think it was nearly twelve o'clock when we got to Kinsey's ; I was in the bar-room all the time I was in the house ; I did not go out of the bar-room.

*Question*—Can you state whether the oyster bar where you put the box was all the time within your sight ?

*Answer*—Yes, sir, it was.

*Question*—Do you know whether the box was removed from the oyster-bar after you put it there, until you took it away ?

*Answer*—I do not think it was, if it had been I would have seen it ; I sat where I could see it ; I say I do not think it was removed, because it was where I put it when I got it, and I sat where I could see it all the time.

*Question*—Where was the box from the time when you took it home and put it in your bed room, until you took it to the City Hall the next morning ?

*Answer*—It was under my bed.

When I locked the box at the City Hall at night, I put the key in my vest pocket, it was there until I unlocked the box at the City Hall the next morning ; no other person than myself had possession or any control over it ; I think the ballot box was not opened from the time I locked it at the City Hall, at the close of the count, until it was opened again at the City Hall the next morning, unless the locks had been picked ; when McDowell and myself were going to my house from Kin-



sey's hotel, on election night, we saw Michael Keegan at the Presbyterian gates, at the corner; we did not stop to talk with him; there were a great many people at the City Hall on election night during the count; there was a good deal of noise; I called the officers several times to keep order, but none appeared to be there; the noise was so great that Mr. Batten told them two or three times that we would have to stop unless there was less noise.

*Question*—How was the recount conducted, in what way?

*Answer*—We unlocked the box; I asked Mr. Naylor and Mr. Stiles if they would sit with the two judges and examine the tickets; Mr. Stiles and Mr. Larzaleer took the Democratic tickets, and Mr. McDowell and Mr. Naylor the Republican tickets; they looked over the tickets; I was standing by part of the time, and part of the time I was sitting down; Messrs. Naylor and Stiles are Republicans; we invited Republicans so that they could see that the thing was done fair; the first error that I heard was that Mr. Stiles and Mr. Larzaleer found one vote for Mr. Lathrop among the Democratic splits; the next they called my attention to three pasted tickets among the Republican solids, that is as they found them they called my attention to them; they were tickets with Jarrett Sokes' name pasted over Lathrop's; I do not remember of any others; Mr. Batten kept the tally; I think that he kept the new tally; I will not be sure; I think he did; I do not remember exactly whether the old tally was altered to correspond with the new one; we made up our returns after we got through with the recount, the next morning.

*Question*—When did you consider that you completed your count?

(Objected to by Mr. Lathrop.)

*Answer*—The next morning after the recount; we commenced right away after the recount to make up the returns; I most forget whether we announced the result openly and publicly after we had completed the recount.

*Question*—Were your returns made according to the truth of the ballots as you had thus counted them?

(Objected to by Mr. Lathrop as leading.)

*Answer*—I believe that they were.

*Question*—Do you know of any alteration being made on the face of any of those ballots from the time when you put them into the box until the time when they were recounted, or have you any information or belief?

*Answer*—No, sir.

*Question*—Do you know of any possible mode by which they could have been altered without your knowledge?

*Answer*—No, sir.

I know of a count which was made by Mr. Roberts and others, as a committee of the League, at my house some time afterwards; I think this was about two weeks after the election; I cannot tell exactly; the first that I know of it was that Messrs. Roberts, Watts and Pugh came there and said that they wanted to make a recount; this was a Saturday evening; they put it off till Monday, when they came there to make a re-

count, they did make a recount; I did not take any part in it; Mr. Batten and Mr. Larzaleer did; I did not make any explanations to them nor did they require any.

Adjourned until Monday, February 1st, 1864, at ten o'clock, A. M., at the same place.

MONDAY, FEBRUARY 1ST, 1864.

Parties present as before.

Benjamin F. Lippincott, a witness on the part of the respondent, being called, says: after the examination was had at my house, Mr. Batten, the township clerk, took possession of the ballot box; the ballot box was at my house from the time of the recount at the City Hall to the examination just referred to, and Mr. Batten had the keys of it; it had not been out of my possession or opened by any one until it was opened by the Committee of the League; Mr. Batten took possession of the keys after the recount, and he had possession of them at the time of the examination at my house; after the returns were all made out and signed after the recount, they were read aloud by Mr. Batten in the council chamber at the City Hall; when I took the ticket from the box, if it was a Republican solid I announced it as such and handed it to Mr. Larzaleer; the council notice to Lippincott of which I have spoken as being voted was rolled up in the same way as any other ticket; the persons in the telegraph office when I took the box there were Mr. Rodgers, David Harmer, Mr. Deacon, Mr. Schermerhorn, Mr. Jacob Cronk, I do not remember whether Mr. Robb was there then or when I took it away—when I took it away, Mr. Rodgers was there, Mr. Harmer, Mr. Schermerhorn, Mr. Cronk, Mr. Robb was there either when I took it there or when I went away with it, I do not remember which; I had a conversation with Mr. Roberts, a witness who had testified here, in reference to the conduct of the election officers, some time after the count at my house.

(Mr. Lathrop objects to testimony relating to conversations with Mr. Roberts, because it is illegal.)

I do not remember the whole of the conversation, but he said that he did not believe that either Mr. McDowell, Mr. Larzaleer or myself had anything to do with the charge which had been made against us, did not believe that we were guilty, or something of the kind; this conversation was in reference to the complaint which he had made against us; no one was present except Mr. Roberts and myself.

Being cross-examined, says: The tickets voted at the last election were headed "Union" and "Democratic;" none were headed "Republican;" I announced them sometimes as "Republican," and sometimes as "Union;" I have been appointed as special or assistant judge by both parties, by a meeting of the citizens who were present; I mean by saying that I was appointed assistant judge, that I was appointed for the purpose of assisting in the count, and to number and string the tickets; this was after the election was over.

*Question*—Upon these occasions to which you have referred, you did not act as a judge under the law, did you?

*Answer*—I acted to fill the place of the assessor or collector, whichever one was absent, being appointed by the town meeting; I was appointed before the election was commenced; I have belonged to the American party; I never belonged to the Republican party; I do not remember that I have ever been present at an election when the names upon the tickets have been read at the count, except the splits; as I took the tickets from the box that night, I examined each by looking through it, to see if it was a solid or a split; I looked over each ticket carefully, to see if it was a split or a solid; after I got through with my own examination of the ticket, I handed it either to Mr. McDowell or Mr. Larzaleer; I do not know that they made any examination of the ticket so handed to them; after the tickets were taken out of the box and all numbered and strung, the tally list was footed up by the clerk; the result was ascertained and announced, as far as the number of votes received by each man.

*Question*—That was an official announcement, was it not?

*Answer*—I do not know that we considered it an official announcement; it was an announcement as far as the clerk had summed up his tally list; our official announcement was made the next morning; I believe that the clerk had summed up all the votes given to each candidate upon his tally list; all the votes which had been cast had been taken from the box and counted for each candidate as cast.

*Question*—Was not your count of that election completed at that time?

*Answer*—We did not consider it finished until the next morning when the returns were made.

*Question*—So far as the counting of the tickets themselves were concerned was not the count complete that night?

*Answer*—We did not consider that it was done until the next morning.

*Question*—In what was it incomplete?

*Answer*—I cannot exactly answer, we went over there in such a hurry then, and there was so much noise that we adjourned until the next morning as we always do, to make them complete.

As soon after the announcement of the result that night as the box was locked, I announced that we would adjourn until the next morning, it may have been just before the box was locked, I almost forget; I do not remember whether or not that the crowd had thinned off very much before this announcement was made; I cannot exactly remember how many were there, I suppose there were twenty-five or thirty persons on the platform; I think Mr. John Larzaleer was there, Paul Early, Samuel R. Stevenson, and I think Mr. Jonathan Roberts, I will not be sure that he was there, I do not remember the names of any others.

*Question*—State if you please the exact language used by you when you made that announcement?



*Answer*—I announced that we would meet the next morning, at half-past nine o'clock, in the council chamber.

It has not been the custom for the election officers in Burlington to sign the official statement until the next morning.

*Question*—And they have been in the habit after the count was made on the evening of the election, to meet the next morning and sign the official statement?

(Mr. Stokes objects to the form of the question, because it assumes for true that which has not been proved; that is, that they met the next morning for the purpose of signing the official returns, and nothing else.)

*Answer*—To recount and make out the official returns.

We consider the recount in the morning an official count; I have read the election laws several times, so far as relates to the duties of the election officers; I do not think that I can point to any provision of the law which either requires, or even authorizes the election officers to meet on the next morning, and have a recount; it is a custom here, and has been generally done; I took the oath prescribed by the statute that morning, before the polls were opened; we recounted the ballots the next morning, because it is customary here, and because we were not satisfied with the count that night; we were not satisfied because there was a good deal of noise and disorder then; I saw Mr. Jarrett Stokes once during that night, at Mr. Kinsey's here; it was in the neighborhood of half-past twelve o'clock when I saw Mr. Stokes; I had no conversation with him, except to shake hands with him and say "How do you do?" I do not recollect that I had any conversation with him about a recount, the next morning, nor did any one else talk to him in my presence about a recount the next morning; I do not remember that I had any conversation that night about a recount, except with Mr. Batten; I told him that we would have a recount; I told him not to forget it; I think we got through the count that night somewhere in the neighborhood of ten o'clock.

*Question*—State, if you please, when and at what State or county elections you have known the election judges to meet on the following morning and recount the votes?

*Answer*—This fall a year ago, and this fall two years ago; there was no contest or dispute as to who was elected after the count in the evening, this fall a year ago, that I know of; they recounted the ballots the next morning, because it was a customary thing here; I do not remember any other occasions when a recount took place, except those I have mentioned; the election officers, last fall a year ago, were Henry B. Goode, clerk; James R. Battin, assistant clerk; Henry Loudon was one of the assistant judges, Spencer L. Hudnut was the other, and I was the judge of the election; the officers of the election, two years ago last fall, were myself, as judge of election, Chauncey F. Booth, as clerk; I think



that Michael W. Keegan was one of the assistant judges, and Charles Willitts was the other; at the recount after the last election, I stood and saw them go over the tickets—Mr. McDowell and the rest of them; I did not myself take any part in going over and recounting these tickets.

*Question*—If this was an official count, as you have stated, was it not your duty, as the judge of the election, to examine and count these tickets.

*Answer*—It might have been my duty, but we generally let the assistant judges do it; we generally appoint the two assistant judges to go over and see that we have made no mistake; the ballots were not taken from the string when they were counted the next morning; on the night of the election we did invite others outside of the judges of election, to come up and see that the thing was fairly done; we invited Mr. Roberts and Mr. Burling, Mr. John Larzaleer and Mr. Levi Kemble; Mr. Roberts and Mr. Burling did not have any opportunity to examine the tickets after they were taken from the box, and before they were numbered and strung, without they picked them up from off the table; they were not invited to examine the tickets; they were merely to keep a tally or check list; Mr. Burling, one of the gentlemen whom I invited up to see fair play, was the person to whom I said that it was “none of his business,” when he asked “what that was,” when I took the council notice from the box.

*Question*—Did you not refuse to let Mr. Burling see another ticket, about which you had some difficulty in making out?

(Objected to by Mr. Stokes, because there is no evidence that he refused to let him see any ticket.)

*Answer*—No, sir, none that I know of; I am quite sure that it was to Mr. Batten that I showed this council notice; I showed it to Mr. Batten and Mr. McDowell both; I am quite sure that I did not put that notice into one of my pockets; I am quite sure that I did not take any other paper from the box, and put it into my pocket, that night; I am not positive that Mr. Harmer did not hear what I said to Mr. Deacon when I put the ballot box in his possession; I do not think that he could have heard it; at the recount the next morning, the tickets taken from the box tallied with the poll book; at the recount at my house, the tickets fell short *one* of the number on the poll book, and it was made up by this council notice; I was in and about Beldin's house about an hour on the night of election, until from a quarter to twenty minutes after eleven o'clock; I remained there to see what was going on; there was a fuss in the bar-room; I did not hear any news concerning the election while I was there; I had not heard the returns from all the townships in the district when I left Beldin's; up to the time when I left Beldin's, I had not heard the returns from any other township except Cinnaminsin; I heard the

returns from Springfield at half-past eleven, at Mayor Hollemback's office; I think I heard from Beverly at Hollemback's office; I did not hear from Willingboro' that night; I did not hear anything said that night as to who was elected to the Assembly from this district; I heard nothing said about the election, in Kinsey's bar-room, except that they asked me the majority here; I told them I did not know, there were so many reports; by the result as announced that night at the City Hall, I heard Mr. McDowell say that Mr. Lathrop had a majority of 168 over Mr. Stokes; I think he told Mr. Roberts so; all I know was what I heard Mr. McDowell say, after I came to Mr. Kinsey's; I heard some say that he had 168 majority; some said that he had 172, and 175; I do not exactly remember now what majority the recount the next morning gave to Mr. Lathrop; it was a hundred and something; I did not hear any one say, on the night of election, that, by the returns as in, Mr. Lathrop was elected or Mr. Stokes was defeated, neither one; I found in Kinsey's bar-room when I came down, George Smith, George Wetherill, Christopher Wetherill, Nathaniel Fenimore, Israel Stokes, and several others whose names I do not remember; the crowd was not very noisy; I did not see George Horn that night, that I remember; after I had been in there some time, several came, I do not know the exact number; I saw Mr. Batten there after I had been there some time; he was not there when I went in; Mr. William Larzaleer came in with this crowd just referred to; Mr. Keegan came in after this crowd had come in; I only had one drink in this house, and one up town; it was from half to three-quarters of an hour after I came into the bar-room, that I took the ballot box to the oyster bar; except while drinking, I leaned upon the ballot box pretty much all the time it stood on the stand; this was done as much to take care of the box as anything else, that no one should interfere with it; I was not much afraid that any one would interfere with it; I generally lean on it when I have it with me, or have it in my hand; I think that Mr. George Wetherill, of Springfield, was talking with me while I was leaning on the box; there may have been some one else, but I do not remember; I put it behind the oyster bar to keep the crowd away, so that it should be safe; concluded that it would be safe there; it was safe on the table while I was leaning on it; the crowd did not offer to take it from me; Mr. Kinsey saw me put it behind the oyster bar; he went with me; all those in the bar-room could have seen me do it had they been looking; it was done in plain sight; the box was put behind the oyster bar between twelve and one o'clock at night; I suppose it remained there half an hour, it may be longer, I cannot tell the exact time; I cannot exactly remember how many persons were in the bar-room when I put the box behind the oyster bar; there may have been twelve or fifteen, it may be more; I do not think there were as

many as twenty-five or thirty there; there was a good deal of talking, laughing and walking about; there was some drinking; I was not walking about the bar-room and talking to people; I talked to some, but not to walk about any; I was talking to several persons; I was at the back part of the bar, part of the time I sat down, and part of the time I stood by the stove; there is a door at the far end of the bar-room, which leads from the oyster bar to the back part of the house; it is six or eight feet, I suppose, from the counter of the oyster bar to the wall.

*Question*—Do you say upon you oath that the ballot box was not taken from the oyster-bar until you took it way?

*Answer*—I do not think that it could have been for I would have seen it if it had been, I stood where I could see it—I had my eye of the oyster-bar pretty much all the time, I watched the oyster-bar to see that the box was not disturbed or taken from where I put it, I was not afraid that it would be disturbed or taken from the place I put it, I did not think it would; I had never known of a box being disturbed prior to that night in this township; I saw the lunch at Mr. Kinsey's house that night; I was at the end of the liquor bar, this was about one o'clock, I partook of it and several others; I do not know exactly how long Mr. McDowell was in the bar-room after we came in; he might have been there an hour, perhaps less, he left the bar-room; I heard them say he was in the parlor, I do not know where he was of my own knowledge, I did not accompany him; I saw him next when I was going home with the box, I saw him here, when I was at the front door, some one else called him out of the parlor, I do not know who it was; it was done at my request; I had him called out to tell him that I was going home and to ask him to go with me; my house is in the neighborhood of a couple of hundred yards from Kinsey's; he had been with me during the evening, and it is generally customary for me to ask some one to go home with me on election night; there were other persons in the bar-room whom I know; the reason why I selected him and had him called out of the parlor, was because there was not any Burlington man in the bar-room at that time whom I knew; I think Mr. Batten stood in the doorway here; he is a Burlington gentleman; I don't think that I told Mr. Roberts that Batten and Keegan were both in the bar-room when I left; I heard Mr. McDowell say as he left the house here, that he would be back in a few minues; I believe that he left here only to accompany me home, and not for the purpose of going to his own home; we might have been five or ten minutes in going from the hotel to my house; we did not stop or pause any on the whole way, nor did I speak to any one; Mr. McDowell and I conversed together as we went along; I do not think we talked about the result of the election, I do not remember what the conversation was, I do not think the election was



mentioned ; we did not talk any about the recount which was to take place ; Mr. McDowell did not go into the house with me ; it was a little after one o'clock, not a great deal, when I got home ; I put the ballot box under the bed, because I always do so ; I put it there to have it out of the way, it is put under the bed where I sleep ; I think it was in the neighborhood of eight o'clock when I got up the next morning ; no one came to my house that morning ; at the recount the next morning the first error which was discovered was among the Democratic splits ; it was a gain of one for Mr. Lathrop ; the alteration was made by scratching off the name of Mr. Stokes, and putting on the name of Mr. Lathrop in pencil or ink, I forget which, it was written ; I do not think that I examined that ticket ; the next mistake that was discovered was the pasted tickets among the Republican solid, I mean by pasted tickets, the name of Jarrett Stokes pasted over that of Mr. Lathrop ; there were three of these ; I do not remember of any other errors being discovered ; I do not remember that there were any mistakes discovered in reference to any of the other candidates on the tickets ; there were split tickets on both sides for clerk and sheriff ; I looked over Mr. McDowell's shoulder and saw these pasted tickets, I did not have them in my hand, I saw that they were pasted ; I had never seen those three pasted tickets before the morning of the recount ; I took all the tickets from the box on the night of the election ; we saw very plain in the morning that the name of Jarrett Stokes was pasted over that of Lathrop, we did not see it at night, McDowell found it ; the name of Jarrett Stokes pasted on those three tickets was very prominent upon the face of the tickets ; I do not think that the type in which his name was printed is any larger than the rest of the tickets.

The ballot box was here opened by me in the presence of the parties and the string of tickets headed "Union" taken therefrom by me ; ticket number three hundred and eighty-five being shown to witness, he says : the name "Jarrett Stokes" upon that ticket is printed entirely in capital letters ; it is printed in the same way upon tickets number thirty-five and one hundred and eighty-five ; the names of the other candidates on those three tickets were not printed in that way, all in capitals ; the name of "Jarrett Stokes" on these three tickets is printed in larger letters than the names of the other candidates ; I do not think I found in taking the tickets from the box that night, any Democratic tickets with the name of Mr. Lathrop printed and pasted over that of Mr. Stokes ; I do not remember of any such.

The string of tickets headed "Democratic" was here taken by me from the box, and three tickets being shown to the witness, he says : those tickets are headed "Democratic," I find upon them the name of Charles C. Lathrop, printed and pasted over that of Jarrett Stokes ; there were three Democratic tickets voted with



the printed name of Charles C. Lathorp pasted over that of Jarrett Stokes; in the recount the next morning we did not find that there had been any errors committed in counting these tickets the night before; I have heard that there are two indictments pending against me, found by the Grand Jury at the last December term, for frauds alleged to have been committed at the last election; I never heard them read.

Examination in chief resumed.—Mr. William S. Kinsey, the landlord set the lunch of which I have spoken as being set at the end of the liquor bar; this was after the ballot box had been put under the oyster bar; I noticed where Mr. Kinsey went after this lunch, he went through the door back of the oyster bar into the kitchen; he unlocked the door, I think when he came back he locked it again; I saw him take hold of the door when he put the box behind the oyster bar and I thought he locked it, but I don't know; when I got the box from the oyster bar, Mr. Kinsey pulled the box out and I picked it up.

*Question*—About how long was this after you saw Mr. Kinsey lock the door after bringing the lunch out of the kitchen into the bar-room?

(Objected to by Mr. Lathorp, because it assumes that the door was locked, a fact which has not been proved.)

*Answer*—I supposed it was in the neighborhood of twenty minutes, I cannot tell the precise time: I had the key of the lock on the lid of the ballot box, the key hole is covered by the hasp; the hasp which covers it is locked by two padlocks, the keys of which the assessor and collector had; before my lock could be picked, the other two locks would have to be opened in some way and the hasp removed; I have stated that at the recount we found among the Democratic splits, one more vote for Mr. Lathorp than we had given him; I do not know how that error was made; all that I know about it is that we found the next morning one more vote for Mr. Lathorp among the Democratic splits than had been given him the night before; I saw Mr. Batten in the hall here as I started to go out; on the night of the election after procuring the ballot box from the telegraph office, I went immediately to the mayor's office without stopping anywhere; I fell in with Mr. Batten while I had the ballot box in my hand, either at Beldin's corner, or between that and the railroad; I do not remember to have seen him after the adjournment over at the City Hall until then; I might have done so, but do not remember; I had had no conversation with him that I remember during that period of time; when McDowell and I left the Mayor's office, we left Batten there asleep.

*Question*—You stated, in answer to a question by the counsel, that you had never seen those pasted tickets with Jarrett Stokes'

name pasted over that of Lathrop's, until you saw them at the recount; what did you mean by that?

*Answer*—I mean that I never saw the name of Jarrett Stokes pasted on the ticket.

*Question*—The first that you observed that, then, was on the morning of the recount?

*Answer*—Yes, that was the first I saw of it.

*Question*—You stated, in answer to a question of the gentleman, that the language you used in announcing the adjournment upon finishing the count on the night of the election, that you adjourned over until nine and a half o'clock the next morning; does your memory serve you whether you stated the purpose of the adjournment; if so, state what you stated it to be?

*Answer*—To have a recount and make out the returns.

*Question*—You stated, in answer to a question by the gentleman, that on the night of the election you counted all the votes which had been cast, as they had been cast; what did you mean by that?

*Answer*—By announcing them as solids and splits.

I do not know of anything in the election law which prohibits an adjournment, or the correction of a mistake, or which requires the election officers to certify to a falsehood.

*Question*—Was or was not the count which you made at night, in the way you have described, a very hasty one?

*Answer*—Yes, sir.

*Question*—Did you take the time to read the names upon the solid tickets, or those which you took to be solid, or did you simply announce them as solids?

*Answer*—I announced them as solids; Mr. Larzaleer's time was wholly occupied in numbering and stringing, and Mr. McDowell's pretty near.

*Question*—Can you state whether before or after the adjournment Mr. Larzaleer, or Mr. McDowell, or either of them, expressed a dissatisfaction with the count, and desired to have a recount because the count had been too hasty?

*Answer*—I remember that Mr. McDowell said that he wanted to have a recount, that he was not satisfied.

I know some of the Grand Jurors who found the bills of indictment referred to; I have heard that they were all Republicans except one.

Cross-examination resumed: on the night of the election when the tickets were counted, I do not remember that there was a Democratic ticket so much blurred that I could not tell for whom it was voted; in counting the tickets that night I did not find a Democratic ticket with the name of Levi French upon it for Assembly; in making the recount the next morning, no such ticket was discovered; at the recount at my house, I saw such a ticket on the Democratic string; that was the first of it; it was found upon the

string in its proper place so far as numbers are concerned ; I have no doubt that that ticket was voted upon election day in Burlington, and that it was counted on the night of the election, and at the recount the next morning as a solid Democratic ticket ; we made this hasty count on the night of the election on account of the noise and disturbance ; we had to call for order several times, we wanted to get through ; I unrolled the tickets as I took them from the box and looked all through them ; I looked at the names on each ticket.

*Question*—If it had been the universal custom for years past in Burlington to have a recount the next morning, as you have stated, why did Mr. McDowell express such a desire to you that night ?

*Answer*—I don't know, but he done it.

BENJ. F. LIPPINCOTT.

Sworn and subscribed February 1, 1864, before me.

JOHN RODGERS, *M. C. C.*

Francis Roth, a witness produced on the part on the respondent, being duly sworn, says : I reside in Burlington and know Benjamin F. Lippincott ; after the election was over in November last, I saw him at Beldin's hotel, he had the ballot box in his hand when he came up to me, and told me that he would like to put the ballot box away, that he did not want to go down town at the time ; I turned around and said to him, "take it into the telegraph office where Uncle Joe Deacon is ;" he came back in a minute or two, and I asked him if he took it there and he said that he did ; I did not see anything more of him that evening.

(Mr. Lathrop objects to all conversations between the witness and Mr. Lippincott.)

FRANCIS ROTH.

Sworn and subscribed February 1, 1864, before me.

JOHN RODGERS, *M. C. C.*

William S. Kinsey, a witness produced on the part of the respondent, alleging himself to be conscientiously scrupulous of taking an oath, and being duly affirmed, says : I am the keeper of the hotel in the city of Burlington where this testimony is now being taken, and I was so on the day of election in November last ; I know Benjamin F. Lippincott, the judge of the election held that day in Burlington ; I saw him on the night of the election with the ballot box when he came with it, I think he came into my house with it about twelve o'clock, to the best of my recollection ; he placed the box on a table in the bar-room on the opposite side from where I was standing ; after it had remained there some ten or twenty minutes or more, I cannot remember the exact time, he came over to me with the box, and asked me if I had some safe



place where he could put it, he did not like it remaining there where it was; I went with him around to the oyster bar, and back of it; there were two baskets under the bar, one with oyster shells in it, and the other, I think, had some oysters in it; I moved one of the baskets out so as to give him room for the ballot box; after it had been there an hour, or perhaps an hour and a half, he came to me and said he would take his box; I went with him, and assisted him to get it from under the oyster bar, by pulling out the basket and taking hold of the end of the box; that was the last I saw of him or the box in any way; I think the box was never removed from under the oyster bar from the time it was put there until Mr. Lippincott took it away; there is a door from the rear of the oyster bar which leads into the kitchen; I cannot state positively whether that door was locked while the box was under the oyster bar; I cannot recollect whether it was locked, we frequently locked it when they go out of the kitchen; the key is never out of the door, it is always left there; I sat at lunch that night on the end of the liquor bar; I passed through this door before I went for the lunch to get a lamp, then I came out with the lamp and noticed the box being there then; this was about half an hour after it was put there.

*Question*—Could that box have been taken away through that door, or in any other way, and brought back and replaced under the oyster bar without your knowledge?

*Answer*—I think not.

Being cross-examined, says: There were a number of persons in the bar-room that night, ten or twenty; they were going in and out; there were perhaps thirty in there when the wagons came up; I was in and out of the bar-room occasionally, coming to this door and going to the dining room door; there was a party of gentlemen in the parlor at the same time; I did not pass further than the door; I was waiting upon the party in the parlor; the door behind the oyster bar cannot be locked from the kitchen side.

*Question*—Do you say positively that that box was not moved from the oyster bar, or do you only think it could not have been moved without your knowledge?

*Answer*—I think it could not have been moved, and I am very confident it was not moved, I was not out of sight long enough for any one to move it; there was a great deal of talking about the result of the election in the bar-room; I think I might have heard that Lathrop was elected over Stokes that night; there were a great many reports; I do not recollect that my attention was directed to the box more than once, of which I have spoken; I found the box, when Lippincott and I went after it, in the same place and position in which it had been put. WM. S. KINSEY.

Affirmed and subscribed February 1st, 1864, before me.

JOHN RODGERS, M. C. C.

Then adjourned until Thursday, February 4th, at 10 A. M., at the same place.

THURSDAY, FEBRUARY 4, 1864.

Parties present as before.

William Larzaleer, a witness produced on the part of the respondent, being duly sworn, says: I reside in Burlington, and have resided here thirty-three years, all my life except three years; I was one of the judges of the election held on the third day of November last, by virtue of my office as collector of the township; the election was held at the City Hall; I assisted in counting the votes in the evening, after the polls were closed, at the City Hall; I think we commenced counting about half-past seven, and closed about ten o'clock; Mr. Lippincott, Mr. McDowell and myself conducted the count; Mr. Batten, the clerk, kept the tally list; Mr. Lippincott, the judge, took the tickets from the box and read them; the judge would take the tickets from the box; if it was a Democratic solid ticket, he would hand it to Mr. McDowell, who would number it and string it; if it was a solid Republican ticket, he would hand it to me, and I would number and string it; if it was a split ticket it would be put in the hat; in thus taking the tickets from the box, I think they were not read, except by announcing them as Democratic solid or Republican solid, as the case might be; the tickets were strung upon different strings; they were numbered from *one* up on each string; the split tickets were counted after we had got through with the solids; Mr. McDowell numbered and strung the Democratic splits, and I the Republican; the splits were all strung on the same strings, that is, the Republican splits were strung on the Republican string, and the Democratic splits on the Democratic string, and the numbering continued on; I numbered all the ballots which were strung on the Republican string; there were three rejected tickets; that is, there were three Republican tickets which were voted double; they were marked "rejected," and tied upon the string; I understood that there was a council notice voted, but I did not see it that night; I had never acted as an election officer before; I had been in the habit of being at the elections when the counts were made.

*Question*—Was your mode of counting that evening the usual mode, or did you adopt a new or different mode?

(Mr. Lathrop objects to the question, on the ground of being leading and illegal.)

*Answer*—The counting was done in the usual way; after completing the count in the way described, the clerk announced the result upon one side, and the judge upon the other; I do not remember what the announcement was of the votes received by the

candidates for Assembly; the tickets, tally list and poll book were all put in the box, which was locked up; I locked one lock, and took the key; Mr. McDowell locked the other, Mr. Lippincott having previously locked the inside lock; Mr. Lippincott took his key, I suppose, and the box; Mr. McDowell took one key, and I took the other.

*Question*—If there was any adjournment over, state when it was, what it was, and by whom it was announced?

*Answer*—The judge stated that we would adjourn until the next morning, at half-past nine o'clock, to meet in the council chamber; Mr. Batten, the clerk, also repeated the announcement.

*Question*—Did he state for what purpose you were to meet? if so, state it.

*Answer*—To recount the votes and make out the returns according to custom; this was, I think, at the time when we were locking the box; the hour of half-past nine was fixed by consultation by the judge with Mr. McDowell and myself, and we agreed that that should be the time; I do not think that there were a great many persons present at the time of the adjournment, some fifteen or twenty, perhaps.

*Question*—Do you know whether such adjournments have been customary or not in Burlington, and if so, state for what period of time it has been customary?

*Answer*—It has been customary ever since I have been a voter in Burlington, some fifteen years; when we first began to count, there were quite a number of persons in the City Hall, perhaps some twenty or thirty.

*Question*—Do you now refer to the count in the evening, or the recount the next day?

*Answer*—In my answer then I referred to the recount the next day.

When we counted in the evening, I should judge that there were two hundred or more present when we began the count; order was not preserved during the count; the judge asked several times to have order, and we had to stop counting for a time; the light was not very good, we had two gas lights on the wall and two candles on the table; Mr. Batten had one candle at the tally and the judge, Mr. Lippincott, had the other candle at the ballot box; the key which I took I put in my vest pocket; after the adjournment, I went down to Beldin's hotel; I remained there half an hour or three-quarters; from there I went to Kelly's hotel, opposite to Kinsey's; I think I must have been there an hour or more; from Kelly's I came over to this house, Kinsey's; I was not at Higbee's hotel that night; I think that it was twelve o'clock or after, perhaps a quarter or half-past, when I came into Kinsey's; I came over here because some one came into Kelly's and told Mr. Jarrett Stokes that the Springfield delegation had come in,



and were at Kinsey's, and would like to see him; quite a considerable number of persons then came over from Kelly's to Kinsey's; Mr. Stokes came over, and I with him; we went first into the bar-room; on entering the bar-room, I saw the ballot box sitting, opposite the bar, on a table or chair; I remained in the bar-room some five or ten minutes; I then came into this room; when I left the bar-room the ballot box was sitting on the table or chair, I think; I did not see anything more of it that night.

*Question*—When you came into Kinsey's bar-room that night, or at any other time or place, did you take Mr. Wetherill by the hand and say with an oath, or without it, that if Jarrett Stokes was not elected he should be, or anything to that effect?

*Answer*—I did not.

The first that I saw of the officers of the election that night after the adjournment at the City Hall, was in this house; I do not remember whether I first saw them in the bar-room or in here; I had not seen or conversed with Michael Keegan that night, from the time of the adjournment up to the time of my leaving this house; I left here about two o'clock, I think that I was alone, I am not positive, I might have started with some one, if I did I do not remember who it was; I do not think I went further than the corner with any one.

*Question*—Did Mr. McDowell say to you that night on leaving Kinsey's, in front of this hotel, or at any other time or place, "Mike can do all that right, he can do it better than we can," or anything to that effect?

*Answer*—He did not; I was not out in the street in company with Mr. McDowell that night.

I was in this room and the bar-room at Kinsey's hotel that night, and in none others; I have no recollection of seeing Mr. Lippincott when he left Kinsey's hotel with the ballot box that night; after coming into the parlor at Kinsey's, I was back and forth several times between the parlor and the bar-room; the parlor was not private; others who were in the parlor would go out into the bar-room, take a drink, and come back into the parlor, and sit down and talk; I next saw the ballot box, after seeing it on the table in the bar-room, in the council chamber at the City Hall, at the time of the recount; it was sitting on the desk, I think, when I went into the council chamber; it had not yet been unlocked; it was unlocked by the judge, Lippincott; I am not positive, I think I handed him my key, and stood by and saw him put the key in the lock and unlock it; my key had been in my pocket from the time of locking the box the night before until near the time of its being unlocked; no other person had it, or the means of obtaining it, except myself.

*Question*—Do you know or have you any information of any

kind of the ballot box having been opened in any way between the time of its being locked at night and the time of its being unlocked in the morning there?

*Answer*—I have not.

I assisted at the recount; the other election officers were all present and assisted; the judge, Lippincott, asked Mr. Naylor to go over the Republican tickets with Mr. McDowell, and Mr. Stiles to go over the Democratic tickets with myself; Mr. Stiles and myself counted the ballots on the Democratic string; Mr. McDowell and Mr. Naylor counted the ballots on the Republican string; the ballots were counted on the strings, Mr. Stiles kept a tally of the votes on the Democratic string, I think; Mr. Batten kept a tally of the whole; we found one more vote among the Democratic splits for Mr. Lathrop than we had counted the night before; we could not detect, for a certainty, how that error had been made; there was a ticket with Mr. Lathrop's name written in ink very much blotted so that it was difficult to make out whether it was a vote for Lathrop or not; Mr. Stiles thought that it was a vote for Lathrop, and we concluded to count it for him; there were three Republican tickets with Jarrett Stokes' printed name pasted on over Mr. Lathrop's; these were found among the Republican solids.

The ballot box of Burlington township was here opened by me, and the string of ballots headed "Union" taken therefrom by me, and the tickets numbered respectively 35, 185, and 385, being shown to the witness, he says:

These are the tickets to which I refer; the numbers 35, 185, and 385, respectively, on these tickets were made by myself on the night of the election, while we were counting off.

*Question*—Had you seen or marked or numbered any ticket which was found in that box at the time of the recount from the time that the box was locked on the night of the election by the election officers, and the time of the recount?

*Answer*—No, sir.

*Question*—Do you know or have you any information of any alteration on the face of those tickets from the time when they were severally deposited in the box on the day of the election up to the present time?

*Answer*—I do not know, sir.

We did not discover any ticket with the name of Levi French upon it either at the count on the night on the night of the election or at the recount the next morning; Mr. Stiles and myself went over the Democratic solids twice and the splits three times, without discovering it.

The string of ballots headed "Democratic" was here taken from the box by me.

Such a ticket was afterwards discovered among the Democratic solids, Mr. Watts found the ticket at the time of the count made

at Lippincott's house, that was the first time I observed or knew anything about it.

The ticket numbered 54 on the Democratic string being shown to the witness, he says: that is the ticket; the name of Levi French is very plain and prominent on that ticket, all of the letters are in plain prominent capitals; there is no difficulty at all in reading it when the eye is directed to it; and yet Mr. Stiles and myself passed over that ticket twice in broad day light without observing it; the figures fifty-four on the back of the ticket are my own.

The tally lists marked respectively exhibits C and D on the part of the contestant being now taken from the ballot box by me, and being shown to the witness, he says: I recognise this exhibit C, as the Republican tally list as kept by Mr. Batten on the night of the election. The figures in pencil on the right hand lower corner of the tally list, exhibit C, being shown to the witness, he says: I do not know when and by whom those figures were made.

*Question*—Have you any recollection of anything having been said about them on the morning of the recount, and at the time the recount was going on? if so, state what?

*Answer*—I think I heard Mr. Batten say to some one "that is my tally list—don't mark on it;" this was while the recount was going on.

I was present at a count which was had at Mr. Lippincott's house some time after the election, about ten days or two weeks after, I think; Mr. Lippincott came up to Mr. Crother's store and told me that they were going to recount the tickets and wanted me to come down; I did so; there were present at that time Dr. Pugh, Mr. Roberts, Mr. Watts, and the election officers, none others were present; Mr. Watts and Dr. Pugh, I think, counted the tickets; Mr. Roberts kept the tally; I think that Mr. Batten also assisted in counting the tickets; the judges of the election did not take any part in that count; I looked over Mr. Roberts while he was keeping the tally; Mr. Lippincott and Mr. McDowell were out a considerable portion of the time.

*Question*—Did you on that occasion give any explanation to Messrs. Pugh, Roberts and Watts, or any of them, as to how the mistakes occurred in the count on the night of the election?

*Answer*—I did not; I think I was with Messrs. Pugh, Watts and Roberts, the whole time they were at Lippincott's house; they were there a few minutes before I got there, but I was with them the whole time during the count; I do not think that I heard McDowell and Lippincott, or either of them, give any explanations to them; there was a difficulty between Mr. Watts and the judges of election as to the count being made by them; this occurred at Lippincott's house, before the ballot box was opened; Mr. Watts and Mr. Roberts both insisted that they had a right to go into the



box and count the tickets without our consent; quite an argument arose between Mr. Roberts and Mr. Watts and Mr. McDowell, in regard to their right to count the votes; I do not remember the remarks that were made by the parties, I did not pay much attention to it; I was perfectly willing, so far as I was concerned, that they should count the votes; Mr. Watts' manner appeared to be rather rough; I think that he said that he did not care anything about us, they only wanted the clerk; I did not have my key after the recount, I gave it up.

Being cross-examined, says: Mr. Watts claimed that, by the law, after the votes were counted and the return made, it was the duty of the clerk to keep them for the benefit of the people; the polls were closed at seven o'clock on the night of election; the clerk then entered on the poll book the whole number of votes which had been cast, and this was then signed by the officers of the election; we commenced counting the votes some ten or fifteen minutes after this; as the judge handed me the ticket, I looked at the face of it to see what it was, whether it was Republican or Democratic; I did not read the ticket to discover whether it was a solid or a split ticket; I only looked at the heading to see whether it was a Union or Democratic ticket, and to see that it was not a split ticket; I think I examined each ticket with sufficient care to see that it was not a split ticket; among the tickets handed to me by the judge as solids, I did not discover any splits; I examined, numbered and strung all the Republican tickets which the judge took from the box, except those which were marked rejected; we strung the tickets on two separate strings, because it has always been the custom here, so far as I know; I cannot tell whether the law requires that they shall all be strung on one string and numbered from *one* up as they are taken from the box; I did not particularly examine the law to see what my duties were; I suppose that there were some fifteen to twenty persons present when the notice of adjournment over was made; I know there were some persons there, there may have been more or less; Mr. Lippincott's exact language, as near as I can recollect, was, "We would adjourn to meet the next morning, at half-past nine o'clock, in the council chamber;" I have stated that it has been the custom in Burlington, for the last fifteen years, to adjourn over until the next morning; the purpose was to make out the returns and count the votes; it has not been for the purpose solely of making out the returns in all cases; I cannot state any State or county election when I have known a recount to take place the next morning; with the exception of one, the recount of last fall was the first and only one of which I have any personal knowledge; when I referred to an exception, I meant a spring election; I have no personal knowledge of a recount after a State or county election until last fall; I cannot tell what was the majority of Mr.

Lathrop over Mr. Stokes by the vote as announced on the night of the election; I heard the votes received by Lathrop and Stokes respectively announced that night; I do not recollect what majority was given to Lathrop as the vote then stood; I heard that night what the majority was; I cannot tell whether it was one hundred and seventy-five; that was not the way I heard it, not altogether; it was reported in the City Hall, before I left, that it was one hundred and sixty-eight; it was reported at Mr. Kelly's that it was one hundred and seventy-two; it was also reported that it was one hundred and seventy-five; I felt considerable interest in the result of the election in this Assembly District; I was quite anxious for the election of Mr. Stokes; I did not myself make a calculation to ascertain what the majority was in this township; Mr. Stokes made such a calculation in my presence, over at Kelly's; his calculation was that if Mr. Lathrop's majority in the township of Burlington was one hundred and sixty-eight, that Mr. Stokes was elected; that if it was one hundred and seventy-two, it was a tie; he was calculating the whole vote in the district; he allowed one majority for Lathrop in Willingboro', eleven majority in Beverly; this calculation was between eleven and twelve o'clock; this was probably a half an hour or three-quarters, (it may be less, I cannot tell), before we came over to Kinsey's; there were some twenty or more persons present when this calculation was made; I think that Joseph Rogers, of Willingboro', was there; some persons from Beverly, a man named Hornby, for one, Wallace Lippincott and William Lippincott were there; they were principally persons from other townships, some of whom I did not know; I did not see Keegan there; I do not think that it was generally thought that Lathrop was elected; after we heard from Springfield, we thought that our chance was as good as theirs; the reported majorities from the townships in the district, including Burlington township, that night did not show a majority for Mr. Lathrop of four votes, as far as I could learn; the reported majority for Mr. Stokes in Cinnaminson was one hundred and fifty-five; in Springfield, twenty-eight; that makes one hundred and eighty-three; if Mr. Lathrop received in this township five hundred and forty-seven votes, and Mr. Stokes received three hundred and seventy-two votes, Mr. Lathrop's majority would be one hundred and seventy-five; Lathrop's majority in Beverly, as reported that night, was eleven; this, added to one hundred and seventy-five, makes one hundred and eighty-six; and the one majority in Willingboro' makes one hundred and eighty-seven; if the majorities in the townships of Burlington, Beverly and Willingboro', for Mr. Lathrop, had been as stated above, he would have beaten Mr. Stokes four votes; I do not think that there was any talk about a recount that night in this township; I do not think that there was anything said that night outside of the City Hall,



by myself or any one else, about a recount; Mr. Stokes and I went up town to inquire what Mr. Lathrop's majority was; I went into Mr. Beldin's; Mr. Stokes did not go in with me, he remained outside; this was between eleven and twelve o'clock some time; I do not remember of whom I inquired; I did inquire; I understood that it was one hundred and seventy-five; taking that as the majority in this township, and the other majorities as reported, it showed that Mr. Stokes was defeated by four votes; I reported to Mr. Stokes what I had heard; Mr. Stokes and I did not believe that he was defeated after we got that report from Burlington, because I did not think that it was correct; because I came from the City Hall with the impression that Mr. Lathrop's majority was one hundred and sixty-eight, and so reported it to Mr. Stokes, and others that I talked with; I do not remember that anything was said, except as I have here stated, as to how it could be ascertained what Lathrop's majority in this township was; I am pretty positive that in my conversation with Mr. Stokes I did not say anything to him, nor he to me, about having a recount here; I did not hear any one else talk about it in my presence; when Mr. Stokes and I left Mr. Beldin's, we came back to Mr. Kelly's; we stopped in coming down, in the neighborhood of the post office, to talk with some Cinnaminson men who were going home, and then came on down; neither Mr. Stokes or myself stopped anywhere else, either in going to or returning from Beldin's; no one accompanied us; when I came over to Kinsey's hotel, I found quite a party here; I found Mr. Lippincott, Mr. McDowell, George Smith and others in the bar-room, I do not remember their names; there were in the parlor when I came in here Mr. Fenimore, George and Thomas Wetherill; Mr. McDowell was either in, or came in while I was here, and George Smith; these are all whom I recollect at present; I rather think that Mr. Stokes came in the parlor, I am not positive about that; I cannot tell how long Mr. Stokes remained in the parlor; I cannot say whether I saw Mr. Batten in the parlor that night or not; I saw him in the house; I think he was in the parlor, but cannot say positively; I saw Mr. Keegan in the bar-room that night; I cannot say whether I saw him in the parlor or not; I do not think that I saw Mr. Lippincott in the parlor, I do not think he was in the parlor; I did not see anything of the ballot box that night after I saw it on the table in the bar-room; I saw it before that at the City Hall; I did not see the ballot box, nor any of the election officers, after leaving the City Hall, until I saw it and them in this house; I did not see Mr. Lippincott leave the house here, nor Mr. McDowell; Lippincott left before I did; he was gone some time before I left the house; I left Mr. Fenimore and the Springfield men here; I think Mr. Stokes left before I did, I am not positive, however; at the recount the next morning, Mr. Lippincott assisted, I think, in going



over the Republican tickets; I think he went over the Democratic splits with Mr. Stiles after I left the tickets; all of the names on the ticket with Levi French's name upon it are in plain, prominent capitals; there is nothing in the character of the type in which the name Levi French is printed to distinguish it from the rest of the names on the ticket; the name "Levi French" is no more prominent than the other names on the ticket; it is a solid Democratic ticket, intended for use in the Fourth Legislative District, in this county; there is nothing on the face of that ticket which would cause it to be taken as a split ticket at a glance; when I said that the figures 54, on the back of that ticket, were my own, I was mistaken; I got that confounded with the other tickets; the attention of the officers of the election, when the tickets were examined at Mr. Lippincott's house, was called to those figures in pencil mark on the right hand lower corner of the Republican tally list (Exhibit C *ex parte* contestant) by Mr. Watts, I think; I said for myself that I did not know anything about them; I think that the other three officers, that is, Messrs. Batten, Lippincott and McDowell, said that they did not know anything about them; a few days after they had made the recount at Mr. Lippincott's, was the first that it occurred to me that I heard Mr. Batten say something, at the recount at the City Hall, about marking on his tally list; there was a good deal of talk about those figures; I do not remember who first called it to my mind; it was called to my memory by conversations which I had upon the subject with the election officers; we all talked together about the matter; I have no recollection of this committee asking for any explanations except about these figures in pencil mark; yes, I believe they did ask for explanations about figures or marks on the tally list other than the figures in pencil; before the examination was begun, if everything was found to be right, Mr. McDowell asked them if they would give a certificate to that effect; he did not ask them for such a certificate after the examination was finished; I have understood that there are two indictments pending against me in relation to this matter.

Examination in chief resumed.—*Question*—You stated in answer to a question of the gentleman, when he asked what was the language used by Mr. Lippincott in announcing the adjournment, that he said "we would adjourn until half-past nine o'clock the next morning, at the City Hall;" did he at the same time state the object of the adjournment, and if so, what?

*Answer*—Yes, to recount the votes and make out the return.

When Mr. McDowell asked these committeemen that they would give a certificate if they found everything all right, they said that they would not do it, that they were going to contest the election any how; I was subpoenaed as a witness in this case on the part of Mr. Lathrop; I attended there three days, and was discharged

and paid, without being called on ; I know quite a number of the grand jury who found the bills of indictment referred to, and I have understood that they were all Republicans but one.

Cross-examination resumed.—*Question*—When I asked you to state the precise language used by Mr. Lippincott, in announcing the adjournment, why did you not do it ?

*Answer*—I thought I did, as near as I could ; it is impossible for me to repeat the precise language used by a person at all times ; it was my disposition to do so ; I evidently omitted part of my answer ; it was not my intention to do so.

W. LARZALEER.

Sworn and subscribed this 4th day of February, 1864, before me.  
JOHN RODGERS, *M. C. C.*

James Russell Batten, a witness produced on the part of the respondent, being duly sworn, says : I am the clerk of the township of Burlington, and acted as clerk of the election on the third of November last ; I have never been clerk of the township but once before ; in the absence of Chauncey T. Booth, I acted as clerk of a township election ; I have acted once as assistant clerk ; I kept a poll book at the last election ; that poll book contains nine hundred and twenty-nine names, and there were nine hundred and twenty-nine ballots cast at the election in November last ; I kept the official tally lists at the last election, and in that way assisted in counting the votes.

*Question*—Was the counting at the last election, done in the usual way in which counting has been done for a number of years in the township of Burlington ?

(Mr. Lathrop objects.)

*Answer*—It was, as far as I have any knowledge of former counts.

I saw Benjamin F. Lippincott, the judge of said election, take from the ballot box and unroll and immediately show to me a council notice to Charles Lippincott to attend a meeting of the common council of this city, which he afterwards placed in the hat with the split tickets, I believe ; Mr. Burling asked Mr. Lippincott what that was, and Mr. Lippincott replied, "it is none of your business ;" there were three ballots rejected for having been voted double, beside this council notice referred to ; upon finishing the count of the ballots, the rejected ballots were taken from under the corner of the ballot box, where they had been placed as they were taken from the box, handed by judge Lippincott to one of the other judges to be marked rejected and strung ; I do not recollect whether we found them, at the count at Lippincott's house, strung or tied upon the string ; we found them there ; the reverse side of the council notice was blank, and at the count at

Lippincott's house it was marked "rejected," and placed with the other rejected ballots.

*Question*—was there any adjournment that night, and if so, state at what time, and by whom, and in what language, as nearly as you can?

*Answer*—There was an adjournment that night, to nine and a half o'clock the following morning, to the council chamber, for the purpose of recounting the vote and making out and signing the returns, and it was announced in the following language, as nearly as I can recollect it: "We will meet in the council chamber to-morrow morning, to recount the votes, and make out and sign the returns, at nine and a half o'clock."

Then adjourned until Friday, February fifth, at ten and a half o'clock, A. M., and at the same place.

FRIDAY, FEBRUARY 5—10½ A. M.

Parties present as before.

The examination of James Russell Batten, a witness produced on the part of the respondent, was continued, as follows: This announcement of the adjournment was made after the ballots had all been counted, and they were about to lock the box; I think that Lippincott had locked his lock and put the key in his pocket; I have no particular recollection in regard to the number of persons present at the time the announcement of the adjournment was made; I suppose that there were twenty-five or thirty persons present, or thereabouts; I cannot distinctly say.

*Question*—Do you know whether any custom has prevailed in the township of Burlington in reference to recounting the votes the next day, and if so, state it?

(Objected to by Mr. Lathrop.)

*Answer*—My knowledge of the fall elections in regard to a recount is extremely limited; I have been at but two fall elections that I can recall; I think that there were recounts at those two elections; I have been at several recounts the next morning after the spring elections in this township, as well as city elections; I do not know of any election, either spring or fall, where there has not been a recount; after they had finished counting the ballots, and I had summed up the official tally list, and the ballots and papers connected with that election had been put in the box, I saw each of the judges respectively lock the three locks each with his own hand and each place his key in his own pocket; Mr. Lippincott, the judge, took the box; I did not see the ballot box again that evening until I saw Mr. Lippincott, near the railroad and near Beldin's corner, on his way down the street; I joined him, and we proceeded together down the street as far as the mayor's office;



I preceeded him into the office; I saw Thomas Wetherill there, invited Lippincott in, saying, "the Wetherill boys are here, we will hear the news from that township;" Lippincott followed me into Hollembach's office, and, after salutations, Wetherill asked Lippincott the time; Lippincott, upon looking at the watch by which we had opened and closed the polls that day, replied, "it is half-past eleven;" we remained in there possibly fifteen or twenty minutes, perhaps longer; when Lippincott started to leave, McDowell said to him, "are you going down the street," he replied, "yes;" McDowell said, "I will accompany you," to which Lippincott replied, "I am glad of it, for I am fond of good company," or words to that purpose; they left together; I did not go with them; I threw myself down on the sofa and took a nap; I did not see the ballot box again that evening until I saw Mr. Lippincott and Mr. Kinsey with it upon the top of and at the end of the oyster bar in Mr. Kinsey's bar-room; Mr. Lippincott brought it toward me, as though he was coming out with it, at which time I passed through the west bar-room door, leading into the hall or entry; I was in the hall or entry when Lippincott called to me, and desired that I would not forget the hour of meeting in the morning, at half-past nine o'clock, after which Messrs. Lippincott and McDowell went out of the front door leading into the street with the box; I next saw it the next morning in the council chamber at the City Hall; I did not see it unlocked; it was unlocked when I got there.

(The ballot box of Burlington township was here opened by me, in the presence of the parties, and the ballots therein taken out by me, and at the request of Mr. Stokes, the witness here proceeded, in my presence and in the presence of the counsel of the parties, to count the votes cast at the last November election in the township of Burlington, as now on the ballots, by the witness reading aloud from each ballot the name of the person designated thereon for member of General Assembly, and as he read I kept the following tally, by making one mark thereon, under the name thus read by the witness.)

(Mr. Lathrop objects to this proceeding, but in case any part of the tickets are counted and tallied, as proposed, he insists that each ticket shall be counted and tallied in full.)

For Charles C. Lathrop,	-	-	-	-	545
For Jarrett Stokes,	-	-	-	-	376
For Levi French,	-	-	-	-	1

I did read the names correctly on the ballots; I have counted up the marks made by the Master for each of the candidates; by those marks five hundred and forty-five votes were cast for Mr. Lathrop; three hundred and seventy-six votes were cast for Mr. Stokes, and one vote was cast for Levi French, and none for anybody else; I found three ballots without any name on for General

Assembly ; on the Union string the blank was numbered 520 ; on the Democratic string the blanks were numbered 378 and 381.

I here took the poll book kept at the last election in Burlington, from the ballot box, in the presence of the parties, which, having been shown to the witness, he says : This is the poll book kept by myself at the election held here, on the third day of November last past ; it is signed by the judges and attested by me : it was so signed and attested immediately after the polls had been closed, and before we commenced counting the ballots ; it has not been in any way altered since, to my knowledge ; I am pretty sure that it was correctly kept ; there were nine hundred and twenty-nine ballots cast, including the council notice to Charles Lippincott.

Adjourned until 10 o'clock on Monday, February 8th, 1864, at the same place.

FEBRUARY 8, 1864.

Parties present as before.

At the request of the respondent, I opened the ballot box of Burlington township, and took therefrom the tally lists marked Exhibits C and D, *ex parte* contestant ; also the poll book and the duplicate of the official return made at the election in November last.

The poll book marked Exhibit L, *ex parte* respondent, was here shown to the witness, James Russell Batten, and he says : That is the poll book of which I spoke on Friday last.

The duplicate of the official return, marked Exhibit M, *ex parte* respondent, being shown to the witness, he says : This is the official duplicate of the returns of the last election, retained by me as clerk of the township ; the aggregate of the vote for Messrs. Lathrop and Stokes, including the French vote, is nine hundred and twenty-two, to which add the three blanks for Assembly, and the four rejected ballots will make nine hundred and twenty-nine the number of votes cast ; the returns show that the vote for Lathrop was five hundred and forty-six ; the count now shows for Lathrop five hundred and forty-five ; this mistake occurred by erroneously counting a solid Union ticket twice on the morning of the recount, it having been counted before in the solids, and it was then again counted in the splits ; we returned three hundred and seventy-seven votes for Mr. Stokes ; the count now made shows three hundred and seventy-six ; this mistake occurred by counting the vote given for Levi French in the solid Democratic tickets for Mr. Stokes ; this error was not discovered until the morning of the count at Lippincott's house : we returned three rejected ballots for having been voted *double* ; the council notice to Charles Lippincott was not considered by the judges of the election a ballot, and was not therefore put in the returns as a rejected ballot : it was first marked "rejected" at the count at Lippincott's house.

The witness being shown Exhibits C and D, *ex parte* contestant, he

says : These are the official tally lists made by me on the night of the election ; (the attention of the witness being directed to the figures 509 and 506, at the top of Exhibit C, *ex parte* contestant,) he says : The number 509 was put upon the tally list on the night of the election, representing the aggregate of the solid Union tickets ; the number 506 was put there on the morning of the recount, the day after the election, as representing at that time the number of solid Union tickets ; the number 509 was then erased by drawing a pen through it and making an ink mark across it, and the number 506 was intended as a substitute for it ; the three marks at the end of the tally of the Union solids were erased on the morning after the election, at the recount ; these alterations were made from the fact that there had, at that time, been found among the Union solids, the three Union tickets with Jarrett Stokes' name pasted over that of Mr. Lathrop.

The attention of the witness being directed to the number 40, opposite the name of Charles C. Lathrop, he says : The number 40 appears to have been marked over the number 38 ; the number 38 was put there on the night of the election ; the number 40 was placed there on the morning of the recount, the day after the election ; the alteration was made for the reason that Mr. Lathrop gained two, by the recount, among the splits.

The attention of the witness being directed to the figure 6, in the number 546, opposite the name of Mr. Lathrop, he says : That figure 6 has been written over an erasure ; the erasure was made on the morning of the recount, the day after the election, by myself, for the purpose of showing the apparent correct aggregate of votes given to Mr. Lathrop ; I cannot say at this time what figure was erased, but I suppose that it was a 7 ; the number 546 represents the sum of the two numbers 506 and 40 on this tally list, the number 506 being opposite the Union solids, and 40 being opposite the name of Charles C. Lathrop ; the number 547 represented the sum of the number 509, opposite the Union solids, with the ink line drawn through it, and the number 38, opposite the name of Charles C. Lathrop, over which the number 40 appears to have been written.

The attention of the witness being directed to the number 363, at the upper right hand corner of Exhibit D, *ex parte* contestant, he says : The terminating figure 3 in that number has been written over an erasure ; that erasure was made on the night of the election, by myself, before the announcement of the votes was made ; it was a correction made immediately upon my discovering it ; I cannot tell now what figure I erased where that figure 3 is ; the number 363 represents the number of solid Democratic tickets.

The attention of the witness being directed to the number 14, opposite the name of Jarrett Stokes, he says : The figure 4 in that number has been written over an erasure, on the morning of the recount, the day after the election, by myself ; I cannot recollect what figure was there before the figure 4 was put there, but the number tallied is *eleven* ; I suppose that the number over which the 14 appears to have been



written was 11 ; that number was changed from 11 to 14 to represent the aggregate vote which Mr. Stokes had received, by adding the three pasted tickets found among the Union solids to the other eleven split tickets, making in all 14 for Stokes among the splits.

*Question*—Why was not the tally altered to correspond with the number 14?

*Answer*—Mr. Larzaleer was in a hurry to get away, and it was overlooked.

The attention of the witness being directed to the number 377, opposite the name of Jarrett Stokes, on the same Exhibit, he says—The terminating figure seven in that number has been written over an erasure, made on the morning of the recount, on the day after the election, by myself, to show the aggregate vote that Mr. Stokes had received, according to the recount ; the number 377 represents the aggregate of the numbers 363, at the end of the Democratic solids, and 14 opposite the name of Mr. Stokes ; the number 363, at the end of the Democratic solids, and 11, the number of tallies opposite the name of Mr. Stokes, make the number which was where the number 377 now is ; I do not know what figure was erased where the terminating figure 7 now is, I do not recollect ; by adding to the number 363 the 11 tallies opposite the name of Jarrett Stokes would make 374, which I suppose was the the number under 377 ; I announced the votes received by the Democratic candidates on the night of the election, I announced them according to the numbers then on the tally list ; I desired to announce them correctly ; in making these tally lists I made but one common tally for all the candidates on the solids, and the number cast for each candidate was arrived at by making a particular tally of the split tickets.

The attention of the witness being directed to the pencil figures in the lower right hand corner of Exhibit C, *ex parte* contestant.

*Question*—Do you know when and by whom those figures were made?

*Answer*—Those figures were made on the morning after the election, in the council chamber, during the recount, by Michael W. Keegan ; my tally lists had been placed on the city clerk's desk in the middle of the room, and the tickets had been gone over and the first count made, and during the second count, I saw Keegan figuring upon this tally list ; I immediately called to him and said to him that he must not be scribbling on that, it is my tally list ; he replied " it will not do it any harm, down here on one corner of it ; " I immediately heard the remark made by some one, I do not know who, " Batten is getting very finnickien about his tally list ; that is all that occurred in regard to it ; I looked at them after we had finished, and I do not think that there has been any alteration in them ; I certainly have made no alteration in them ; all the figures and writing in ink on that tally list were made by me and by no one else ; I made the alterations in the figures on the tally lists by order of the judges of the election, on the morning of the recount the day after the election ; I may as well finish all which occurred to me any where in reference to the figures in pencil on the tally list ; upon the Saturday night when Mr. Lippincott and myself met with Messrs.

Roberts, Watts and Pugh, at Lippincott's house, my attention was called to these pencilings on the tally list, I think by Mr. Watts; he asked me if I knew who made them, saying at the same time "they are not your figures," meaning mine; I replied, "they are not my figures, and I do not know who made them;" I think that was the expression I used to him; on the succeeding Monday morning when the election officers met with the same gentlemen, Roberts, Watts and Pugh, there was something said about them; attention was called to them again, when I remarked that I did not know anything about them; on the Saturday night I did not recollect who made them; but going over it on Sunday in my mind, to refresh my memory in regard to it, I did remember that Keegan did make them, but the manner of Mr. Watts on the morning we were there, together with the manner of Mr. Roberts to me on the Saturday night previous while proceeding from my home to that of Mr. Lippincott, saying to me, "refuse to let us see those ballots if you dare," had angered me; and I was determined I would give them no oral information in regard to anything; while at Lippincott's house I was perfectly willing that they should see and examine every thing which was in that box which would speak for itself.

*Question*—Did you then give them any verbal explanations of any kind there?

*Answer*—I did not except to defend the election judges; I have reference now to Monday morning; recollect Mr. Watts took this poll book into his hand (Exhibit — *ex parte* respondent) and said "there are nine hundred and thirty names on it;" I said "not so, the memorandum on the poll book was commenced on the line numbered 930," and explanations of that kind; I think that there were others, but I cannot recall them at present.

*Question*—Can you state whether the conduct of Mr. Watts, at Mr. Lippincott's house, towards you and the rest of the election officers was respectful or insulting?

(Mr. Lathrop objects as being a leading question.)

*Answer*—His manner was very overbearing and aggravating.

At the recount, I kept a second tally list; on the morning after the election; I kept it in ink; I think it was destroyed that morning; it was merely kept as a check upon the official tally list; it was kept for the purpose of comparing with the official tally list and making the alterations if any errors were found upon the official list; this duplicate official statement (Exhibit — *ex parte* respondent) was made out after the return sent to Trenton, and the return to be sent to the board of canvassers at Mount Holly; each was a compared copy of the other, and each signed by the officers of the election; these were made out immediately after the recount on the morning after the election; after the recount on the day after the election, the papers connected with the election were placed in the ballot box; the box locked, with the three keys, all the locks were locked; judge Lippincott gave me the three keys, and he took the box; those keys remained in my possession up to the count at Lippincott's house by Messrs. Roberts, Watts and Pugh,

at which time I handed them to judge Lippincott for the purpose of unlocking the box ; and after that count they were placed again in my possession, and so remained until I delivered them to the grand jury at the last December term of court.

*Question*—Have you any knowledge or information of any alteration in any of those ballots, between the time of the count made on the night of the election, and the recount on the morning of the next day ? if so state what ?

*Answer*—I have no knowledge or information of any thing of the kind.

*Question*—Have you any knowledge or information of the ballot box having been opened in any way during that time ? if so state what ?

*Answer*—I have not.

I think it was about half-past twelve o'clock on the night of election when I got down to Kinsey's hotel, after leaving Hollembach's office ; I was only in the bar-room and front parlor of Kinsey's hotel that night.

*Question*—Did you walk with Michael Keegan up and down Delaware street, that night ?

*Answer*—I did not.

I saw the three tickets among the Union solids, upon which the name of Jarrett Stokes is pasted over that of Charles C. Lathrop, on the morning of the recount at the council chamber, and looked at them.

*Question*—Did you observe whether there was any difference of color between the paper upon which Stokes' name was printed, whether it was darker or lighter, than the other paper of the ticket ?

*Answer*—They presented to my eye exactly the same appearance then, that they did at the count made here on Friday last.

*Question*—Did you hear Mr. McDowell, at the time the count was made at Lippincott's by the league committee, ask that committee that, if upon recounting the votes, they should find matters correct, they would give to the election officers a certificate to that effect, or some question of that substance ; if so state what it was and what occurred ?

(Mr. Lathrop objects, as leading.)

*Answer*—On the Monday of the count at Lippincott's house, all the election officers and Messrs. Roberts, Watts and Pugh being present, before the count was made, Mr. McDowell asked that if they should examine the contents of that ballot box, (my impression is that his language was principally directed to Mr. Watts), and find every thing correct that they would give to the election officers a certificate to that effect, to which was replied by a part of that committee, by Mr. Watts certainly and I think also by Mr. Roberts ; (I am not so sure of that as I am of the other ;) No.

I was subpoenaed in this case upon the part of Mr. Lathrop, and attended two or three days ; I was not examined, I was discharged.

The string of ballots headed "Union," being taken from the ballot box by me, and the ticket numbered 509 being shown to the witness—

*Question*—Was your attention called to that ticket on the night of



the election, during the count? If so state how, by whom, and the circumstances attending it?

*Answer*—During the counting of the tickets on the night of the election, Benjamin F. Lippincott, the judge, called my attention to this ticket immediately after he had taken it from the ballot box, and consulted with me as to the propriety of giving the vote to either Amos Gibbs or Ridgway Hancock, the name of Ridgway Hancock being written in ink under that of Amos Gibbs, and neither name crossed off; that ticket came from the ballot box exactly as it is now with all the names on it.

*Question*—Did you at that time observe the name “J. Stokes” in pencil?

*Answer*—I did; I called Lippincott’s attention to it by pointing to it.

During the count on the night of the election, order in the hall was very badly preserved; I stopped the count several times, and desired Lippincott to endeavor to have quiet restored, saying to him upon one of those occasions, that unless there was less noise we could not go on with the count; he sent Mr. Levi Kemble, the township constable, who went from the platform to the body of the hall, restored quiet there to some extent, and then proceeded to the gallery and cleared it of a parcel of boys who were there running about and making a noise; after finishing the count at the City Hall, I saw Benjamin F. Lippincott in the street, before I met him and walked down the street with him, but I had no conversation or communion with him, either directly or indirectly; he did not send any messenger to me, nor I to him, before I met him near the railroad at Beldin’s corner, and walked down with him as far as Hollembaek’s office; I left Kinsey’s hotel on the night of the election about twenty minutes before two o’clock; David P. Lukens and myself left the house very nearly together; he was upon the side walking front of the house when I went out; I asked him if he was going home; he said he was, when we proceeded up the street as far as Beldin’s corner, when I left him.

Being cross examined says: I have never been elected clerk of Burlington township; I was appointed by the township committee to serve at the last election; I served the township as its clerk in the absence of Chauncey T. Booth, I think two or three years since: I think I have been present at two state and county elections, in the township of Burlington when there was a recount the next morning after the election; I think that in 1861 and 1862, there was a recount, when I was present; in 1861 Benjamin F. Lippincott was judge, and I think Michael Keegan and Charles H. Willetts, the other judges, and I acted as clerk; in 1861 there was a member of the General Assembly, a sheriff, three coroners, voted for; I believe that is all; I do not remember whether there was a Senator voted for or not.

*Question*—Do you say then upon your oath, that on the morning after the fall election in 1861, the votes were all taken out of the box and recounted?

*Answer*—I do not know that there was a formal recount in that year,

or that the votes were all taken out of the box and recounted ; they were gone over, I think ; I mean by saying that there was a recount that the tickets were taken out and examined ; I think that I took them out and examined them to see if there were any splits among the solids ; this is what I mean by a recount ; I do not recollect whether I kept any tally or not ; there was no dispute between any of the candidates in the fall of 1861, that I heard of ; I did this to see whether there were any splits among the solids ; they said that it had been customary ; I had not heard of it until that time : I have no recollection that the result was changed from that which had been announced the night before ; I do not recollect whether in the fall of 1861, there was an announcement of an adjournment ; I cannot swear positively ; the officers of the election at the fall election of 1862, were Benjamin F. Lippincott, judge, Spencer Hudnut and Henry Loudon, and Henry B. Good, clerk ; and upon the closing of the polls that night I was appointed by the board assistant clerk ; a member of the General Assembly, sheriff, three coroners were voted for in 1862 ; I do not recollect whether there were any others ; there was a Governor voted for ; I do not recollect whether there was a member of Congress voted for or not, there might, have been ; the morning after the election, Messrs. Goode, Lippincott, and myself went over the ballots to see if there were any split tickets among the solids ; Messrs. Loudon and Hudnut, I do not think participated in it ; they were there ; there was not a recount of the names upon the ballots in the fall of 1862 ; we met on the 4th of November, 1863, for the purpose of having a recount and to make out the returns ; this was a rather fuller recount than I have stated as having taken place in 1861 and 1862, because they wanted to see whether there was any split tickets among the solids, as we had done before ; and it was done that way this time ; they looked through the solid tickets to see if there was any splits among them ; our reason was because we wanted to ascertain whether there were any split tickets among the solids ; and it was a close vote on the Assembly they said ; and they went over the splits, of which I kept a tally ; I learned on the morning after the election at the recount, that it was a close vote on the Assembly.

*Question*—When you adjourned on the night of the election, was it not with the understanding that you would meet the next morning and recount in the same way as you had done in the two preceeding years?

*Answer*—I had no understanding about it ; the announcement was simply made, that we would adjourn over until half-past nine o'clock the next morning, to have a recount and make out the returns ; there was no conferring together, as to what that meant or anything about it.

*Question*—Then you heard nothing said that night about a recount before you left the City Hall, which should be conducted in a manner different from those of the two preceeding years ?

*Answer*—The announcement was simply made that we would meet the next morning, at half-past nine o'clock to recount and make out the returns, and I heard nothing else.

*Question*—Then you did not hear from any of the election officers before you left the City Hall that night, that the recount the next morning would be more particular and careful than usual?

*Answer*—I did not; I merely heard the announcement as above stated.

*Question*—From what you heard that night, you supposed the meeting the next morning was for the same purpose as those of the two preceding years?

*Answer*—I had no reason to think anything else.

The first that I heard that the tickets were to be taken from the box and counted and tallied, was when I arrived at the City Hall; the next morning the tickets were not all counted and tallied; the solids were not; they were merely looked through as they had been in the two preceding years.

*Question*—If you undertook to make an accurate recount that morning, why did you not tally all the tickets?

*Answer*—For the reason that if the solids held out with the tally list of the night before, there was no occasion for it; they were counted to see if they agreed with it; we tallied them in that way, to see if the aggregate of the solids agreed with the aggregate of the tally list of the night before; in my new tally list that morning, I tallied the aggregate of the solids and the splits; on the morning after the election I tallied the officers for Assembly, clerk and sheriff; I do not think that the coroners were tallied; I am under the impression that there were no errors discovered in the count of the night before, for sheriff and clerk; but we made an error that morning; I think that there were a number of split tickets both for sheriff and clerk, on both sides.

On the night of the election five hundred and forty-seven votes were tallied and recorded for Mr. Lathrop: on the night of the election, there were three hundred and seventy-four votes tallied and recorded for Mr. Stokes: that is my impression: I got that impression, by the number of solid Democratic tickets, being *three hundred and sixty-three*, which taken together with *eleven* tallies opposite the name of Jarrett Stokes, make together three hundred and seventy four.

*Question*—Do you swear that on the night of the election, there were eleven split tickets tallied opposite the name of Jarrett Stokes?

*Answer*—I think there were: that is my recollection.

I think that on the night of the election, the figures 11 opposite the name of Jarrett Stokes, where the figures 14 now stand, was carried out 11; I do not think that I added two tallies to Mr. Stokes' poll of the splits at the recount the next morning, because if I had, I would have also added the three pasted tickets; I do not think that we compared the tally list with the number of the tickets on the night of the election; the aggregate vote of Lathrop and Stokes, as footed up on the night of the election, is 921, to which add the three Assembly blanks, and the four rejected ballots makes 928, which is one short of the whole number of votes on the poll book, 929; there have been no alterations in the figures on the tally lists except those opposite the names of the



candidates for Assembly : but there should have been alterations in the others ; each should have gained one by the face of that tally list ; in the official return, we returned one less for the candidate for clerk, sheriff and coroners on the Republican ticket, than the tally list shows that they are entitled to ; because there was a solid ticket I find wrongfully counted among the splits, which gave to each candidate one more vote than he was entitled to ; and we gave Mr. Lathrop the benefit of that, returning him one more vote to wit : five hundred and forty-six, which added to three hundred and seventy-seven, the vote received by Jarrett Stokes, make nine hundred and twenty-three : to which add the three Assembly blanks and four rejected ballots, make nine hundred and thirty, one more vote than the poll-book calls for ; we did not alter the figures, for the other candidates in the tally list as we did in the case of the candidates for Assembly, so as to make it correspond ; because it was an oversight ; we also returned one more vote for Mr. Stokes than he was entitled to ; this was the Levi French ticket ; the true number of solid Republican tickets tallied is 506 ; by the face of the tally list, (Exhibit C. *ex parte* contestant) the sheriff is entitled to five hundred and forty-one votes, by receiving five hundred and nine in what is represented as solids here, and thirty-two tallies opposite to the name of William C. Lippincott, make five hundred and forty-one, with one tally erroneously put there ; there were but five hundred and six solid votes tallied upon that list.

*Question*—In counting p your votes you had no right to give Mr. Lippincott, more than the five hundred and six votes tallied and marked ; had you ?

*Answer*—I had not ; but I had a right to give to William C. Lippincott the votes which he received at that election ; I did not want to deprive him of any of them.

The number of votes tallied opposite to the name of William C. Lippincott, on that tally list is thirty-two ; but William C. Lippincott was entitled to three votes, upon the tickets which had been counted as solids, the night before, and the next morning at the recount were discovered to be splits ; those three tickets were taken from the tally list of solids at the recount the next morning ; and I did not add those three tickets to Mr. Lippincott's vote upon the tally list ; the vote for William C. Lippincott on that tally list, as it now stands is five hundred and thirty-eight ; but I know that William C. Lippincott had received five hundred and forty votes, and the returns were made out in accordance with that.

*Question*—Does not the same discrepancy exist between the vote tallied for Mr. Gibbs, the candidate for clerk, on the tally list, and the vote returned ?

*Answer*—It does ; with the same explanation as made with regard to the vote for sheriff, and also with the coroners, with the same explanations.

*Question*—Does that tally list upon its face, represent correctly the

state of the vote, as you recounted it on the morning after the election, so far as the candidates for sheriff, clerk and coroners, are concerned?

*Answer*—It does not; but is susceptible of explanation.

*Question*—Why did you not correct the errors in the vote for sheriff, clerk and coroners, upon the tally list? so as to make the returns and the tally list correspond?

*Answer*—Because I know of my own knowledge that William C. Lippincott, and the other candidates, with the exception of the assembly had received that five hundred and nine votes, together with the number tallied opposite to them in their respective places.

*Question*—Could you not as well have made a correct return of the votes cast for members of assembly, without altering the tally list as you could in the case of the clerk, sheriff and coroners?

*Answer*—I suppose I could.

*Question*—Why then did you alter the tally list in the one case, and not in the other?

*Answer*—I had no particular reason for it.

I think we were not looking for errors mainly in the assembly vote; if we had been, we should have tallied the vote for assembly only.

It occurs to me that we got through the count on the night of election a little before 10 o'clock; after we got through I came down to Beldin's hotel; I was the last one to come out of the hall; the others had preceded me; I was also over at Higbee's hotel; I cannot tell how long I was at Beldin's hotel; I think I was not at any other places except Beldin's and Higbee's, otherwise than in the street; before I went to Hollembach's office, I had not the reported returns from all the townships in the district that night; I had the reported returns from Springfield; the majority then was said to be 28 for Mr. Stokes; I had from Cinnaminson, 155 majority for Mr. Stokes; I do not recollect having any other returns that night; I was inquiring after them and could not get them; I do not recollect what the announcement was in Burlington township; I think the vote as announced gave Mr. Lathrop one hundred and seventy-two or three majority.

*Question*—Did you not on the night of the election, after you were through with the count, ascertain the majority of Mr. Lathrop and Mr. Stokes, in Burlington township, either by the list kept by yourself, or in any other way?

*Answer*—I think I did not; I have no recollection of having done so?

*Question*—You say you were inquiring for returns, from the other townships in the district, why did you not ascertain the majority in this township, you having all the materials in your possession to do so?

*Answer*—Because we were anxious to get away from the City Hall; and I supposed that some of the judges of the election had a memorandum of it; they preceded me out of the hall; and I inquired and they could not tell me; McDowell, I think, said that it was one hundred and sixty-eight.

*Question*—After the tally list was footed up, and with that list before

you, how long would it have taken you to have ascertained the difference between the vote between Mr. Lathrop and Mr. Stokes?

*Answer*—I do not know how many minutes and seconds it would have taken me; I did not know that I was obliged to do it; I did not know that it was a part of my election duties; I supposed that one of the other judges had it.

The figures were carried out on the tally list on the night of the election; it would not have taken any considerable length of time to have subtracted the vote of Mr. Stokes from that of Mr. Lathrop.

*Question*—Do you say upon your oath, that you do not know the majority of Mr. Lathrop over Mr. Stokes in this township, by the vote as announced that night?

*Answer*—I do not recollect it; nor do I recollect what vote was announced of my own knowledge, without the aid of the tally list, for Mr. Lathrop, and what for Mr. Stokes.

*Question*—Do you swear that you did not know that night what the majority of Mr. Lathrop was over Mr. Stokes, in this township, by the vote as announced that night.

*Answer*—I do; for had I announced both tally lists, I might have recollected it; Lippincott announced one and I announced the other, and my attention was more engrossed with the one which I announced, than the one which he was announcing; I added both tally lists on the night of the election, and the figures were made by me.

I saw Mr. Stokes that night; he resides in the township of Willingboro'; I saw him at Kinsey's hotel a quarter before one, as near as I can recollect; I did not ask Mr. Stokes what was the majority in Willingboro'; I have no recollection of having seen or talked with any one from Beverly that night; I did not hear from any one that night who was elected to the legislature from this Assembly District; I do not recollect to have had any conversation with any one that night about it, in all probability I had, but I do not recollect it; I did not make any calculation, nor did any one make in my presence any calculation as to who was elected from this Assembly District that night, from the time that we left the City Hall, until we met at the council chamber the next morning.

Adjourned until 10½ A. M., on Tuesday, February 9th, at the same place.

\*  
TUESDAY, FEBRUARY 9TH, 10½ A. M., 1864.

Parties present as before.

Cross-examination of James Russel Batten, continued.

I think I corrected the figures on the Democratic tally list, opposite the name of Mr. Stokes, so as to make it correspond with the return.

*Question*—Why did you not correct the votes tallied on that list so as to make them correspond with the corrected figures?

*Answer*—That was an oversight; the three tickets which Mr. Lathrop



lost in the Union solids should have been tallied opposite the name of Jarrett Stokes, he having gained that number of votes, by the three pasted tickets with the name of Jarrett Stokes, pasted on that of Mr. Lathrop, found among the Union solids; it was not done because it was an omission, an oversight.

I altered the figures upon the Union tally list in Mr. Lathrop's vote, so as to make them correspond with the vote returned for him; I also altered the tallies in the Union tally list so as to make them correspond with the corrected figures; I have no recollection of having added two votes to Mr. Stokes' tallies in the splits, on the morning of the recount, for if I had I think I would have added the three which Mr. Stokes gained for him, by the three pasted tickets found for him among the Union solids; I think that I am positive that I did not add those two votes; I have no recollection of having done so.

*Question*—At the recount on the morning after the election, in addition to the three pasted tickets already spoken of, were there not two additional votes counted for Mr. Stokes, which had not been counted for him the night before?

*Answer*—I have no recollection of any such two votes; I do not think that two such votes were counted.

The attention of the witness being directed to the number 14 on the Democratic tally list, (Exhibit D *ex parte* contestant) opposite the name of Jarrett Stokes—

*Question*—State if you please, what figure or figures were placed there on the night of the election, after the votes were counted and your tally lists summed up?

*Answer*—I think it was 11, from the fact that there are eleven tallies opposite the name of Jarrett Stokes, which number of tallies I do not recollect to have changed.

*Question*—Do you recollect distinctly that *eleven* was the number marked there that night?

*Answer*—I think that I am clear in saying that the number *eleven* was marked there that night, for I have no recollection of having changed it.

The attention of the witness being again directed to the number 14, on the same tally list—

*Question*—Is not the figure *one* and the first line, in the figure *four*, evidently written over where the paper has been scratched?

*Answer*—It looks as if it was so; it may be so and it may not.

*Question*—From the appearance of the paper, was there more than one figure scratched off?

*Answer*—I cannot tell whether two figures have been scratched off or one; there might have been one or there might have been two; I do not recollect.

*Question*—Were not the figures *one* and *four*, on that tally list

both put there after the paper had been scratched on the morning of the recount?

*Answer*—The *one* appears to be on the edge of the erasure or scratching, and the left hand stroke of the *four* appears to be nearly over the erasure; I therefore think that both those figures were not put on there after the paper had been scratched, although I might have scratched out both figures and renewed them with *fourteen*.

*Question*—Is not the paper where the figure *one* is written or marked, and the left hand stroke of the figure *four* blurred by reason of their being marked where the paper had been scratched?

*Answer*—The left hand stroke of the figure *four* appears to be slightly blurred; I do not detect a blur in the *one*, it appears to be nearly as smooth as the other figures on the tally list.

*Question*—If the number *eleven* was originally on that tally list, as you have stated, why did you scratch at all to change it to *fourteen*?

*Answer*—For the reason that the left hand stroke of a *four*, as ordinarily made, would extend below the longitudinal line in making the figure *four*; I should therefore scratch out the *one* to prevent that line from running below the longitudinal line, and also for the purpose of getting a proper distance between the figures, another reason is that I scratched it out to alter it, to change it.

*Question*—Will you please to state whether the left hand stroke of the figure *four*, as it now is in the number *fourteen* (14), extends below what you call the longitudinal line?

*Answer*—It does not, but the way I make the figure *four* (4) and the other figures *four*, (4) upon this tally list, the longitudinal line in the figures *four* (4) is drawn above the lead pencil line on which the figures are placed; but in this number *fourteen* (14) referred to, it appears that I made it a little lower.

The attention of the witness being called to the Union tally list, (Exhibit C *ex parte* contestant) he is asked to look at the number forty, (40) opposite the name of Charles C. Lathrop, the number five hundred and forty-six (546) opposite to the same names, and the number five hundred and forty (540) opposite the name of William C. Lippincott; he says those figures were made by me.

*Question*—Look at the figure 4 in each of those combinations, and tell me whether the left hand stroke in any or either of those figures extends below what you call the longitudinal line?

*Answer*—They do not; but I do not recollect saying that the left hand stroke of the figure *four* (4) extends below the longitudinal line.

*Question*—Could you not more easily and sooner have converted the figure *one* (1) into a *four*, (4) than you could have scratched out one figure and made a new one?

*Answer*—In all probability I could, but I did not calculate time, and I suppose that I did it the other way.

*Question*—In giving to Mr. Lathrop five hundred and forty-seven (547) votes, and to Mr. Stokes three hundred and seventy-four, (374) and adding the four rejected ballots, and the three Assembly blanks, do you not fall one short of the whole number of votes polled and entered upon the poll book?

*Answer*—We do.

*Question*—How do you account for that missing vote?

*Answer*—By the one which Mr. Lathrop gained on the morning after the election, at the recount, found among the Democratic splits.

*Question*—For whom was that counted on the night of the election?

*Answer*—I cannot tell for whom it was counted; I did not count the tickets on the night of the election.

*Question*—You gave as a reason yesterday, why the figures carried out on the Republican tally list (Exhibit C *ex parte* contestant) opposite the splits tallied to all the candidates except Mr. Lathrop, fell one short of the vote actually tallied, that a solid ticket which had already been counted to them was again counted to them among the splits; was not this discovery first made when you went over the tickets at Mr. Lippincott's house together with the committee?

*Answer*—I think so; it is my impression that it was first discovered at Lippincott's house at the time mentioned; I have no recollection as to who pointed it out; it may have been Mr. Roberts, I do not know.

The only time that I saw Jarrett Stokes on the night of the last election, was at Kinsey's hotel; I had no prolonged conversation with him, nor he with me; we did not talk much if at all, about the election; I do not recollect the topic of conversation; we might have talked about the election, in all probability we did; there were no calculations as to the result of the election made, either orally or on paper, as I have already stated; Mr. Stokes did not say in my presence or in my hearing whether he supposed himself to be elected or defeated; I did not tell him that there was to be a recount in this township the next morning; I had no reason for not telling him that there was to be a recount; I did not think of it; it did not occur to me; I did not think of telling him or any one else; I supposed that it was a very close vote in the district; I did not know it, because I had no returns, as I have already stated; I had no talk with any one about a recount after I left the City Hall, except with Benjamin F. Lippincott, the judge, at the time he was leaving Kinsey's hotel with Hamilton McDowell, Lippincott having the ballot box in his hand, at the west bar-room door leading into the entry; he told me not to forget that we



would recount the votes and make out the returns at half-past nine o'clock the next morning; that is all the conversation I had with any body about it; I am the regular clerk of the township of Burlington for the present year.

*Question*—On the morning after the election, and after your official statement had been made and signed, why did you not take charge of the poll book, ballots, tally list and official statement?

*Answer*—Because it has been customary in this township for the judge of the election to take the ballot box locked, and give to the township clerk the three keys, which custom was followed on this occasion.

*Question*—Does not the law require that the clerk shall, immediately after the statement has been made and signed by the officers of the election, take charge of the papers above referred to, and preserve them among the records of the township?

*Answer*—I suppose that it does, but as I had the keys I considered that I had possession of them, and that no one could get at them without my permission.

I think I saw Michael W. Keegan, after I left the City Hall, on the night of the election, in Kinsey's bar-room; it was as late as twelve o'clock; I think it was after half-past twelve o'clock; I cannot tell whether it was before or after one o'clock; I kept no record of time, nor of that event of seeing Keegan; I was not with him at all; I just spoke to him; I had no conversation with him of any duration or any moment, that I can recollect; Michael W. Keegan and myself were never in company outside of Kinsey's hotel that night; I saw him, for the first, the next morning, in the council chamber, during the recount; it was after ten o'clock when I first saw him at the council chamber, on the morning after the election; I fix the time because I did not go there until after ten o'clock; I do not recollect how long he remained there, perhaps an hour and a half or an hour and three-quarters; I have no way of fixing the time; I have no watch; he left the council chamber before we had made out the returns.

*Question*—About what time was it when he put those figures in pencil mark on the tally list (Exhibit C on the part of the contestant)?

*Answer*—Now you have got me again with regard to the time of day, but I can tell you during what part of the recount the judges were at when he made those figures on this tally list; they had entirely completed the first count and were going on with the second count, when I detected him making them upon the tally list; the tally list was on the clerk's desk in the middle of the room when he made those figures, as I have already stated; Keegan was at the desk at the time; I do not know that any one was particularly near to him; they were standing and sitting around; I was keeping the tally list on the third desk on the west side of the

council chamber; I was not at the same desk where Keegan was figuring, but I saw it, and could see it; I was keeping tally of the recount; I kept that tally on a piece of paper, in the ordinary way in which tallies are usually kept; I kept a regular tally of the votes as recounted; they gave me the number of solids in the aggregate, as well as splits, as they counted them; I placed the tally on the desk where Keegan was figuring on it; I placed it there to have it out of the way, and to have it convenient when it was wanted; I had no particular reason for placing it there; my impression is that I put it there some time after I got there; my impression is that I placed it there before the first count; I did not refer to or use that tally list in making the first count; I suppose that eight or ten persons, including the election officers, were inside the railing when I spoke to Keegan about it; they were, Benjamin F. Lippincott, the judge; Hamilton McDowell, William Larzaleer, myself, Michael W. Keegan, Col. Wall, Joseph L. Wright, Jonathan Knight, Edward Toy; I believe that these are all, except Parrish Naylor and William H. Stiles, whose names I can now remember; I am certain that Edward Toy was inside the railing sometime during the morning; no one called my attention to the fact that Keegan was figuring upon my tally list; I caught him at it myself; when I spoke to him, I spoke in my usual tone of voice; I spoke so loud that persons inside the railing could have heard me if their attention had been directed to it; had they been engaged in conversation, they could not, I suppose; Keegan replied, that "the figuring I am making can do no harm down on this corner of your tally list," or words to that effect; I made no reply to it; I did not like the idea of his scribbling on my tally list.

*Question*—Why did you not rub them out or erase them?

*Answer*—I did not care anything about them, when I saw where they were and what they were.

*Question*—What do the figures in pencil mark, made by Michael W. Keegan on the right hand lower corner of that tally list (Exhibit C contestant) represent?

*Answer*—The number, 175, which I find to be there, represents what has been claimed by the Union men of this township, since the election, to be the majority alleged to have been received by Mr. Lathrop over Jarrett Stokes at the last election; the figure 4, immediately under it, is said to represent the majority alleged to have been received by Mr. Lathrop at the last election in the township of Willingboro', and the number 11, immediately under the figure 4, it has been said represents the majority alleged to have been received by Mr. Lathrop in the township of Beverly; the number 190, is the aggregate of the above numbers footed up; I know of my own knowledge that the number 155 represents the majority said to have been received by Mr. Stokes in the township

of Cinnaminson, and the number blurred I suppose is 28, under 155, represents the majority said to have been received by Mr. Stokes in the township of Springfield; the townships I have named comprise all the townships in the district; the number 547 is, I believe, the number which was returned for Mr. Lathrop on the night of the election, or which was claimed to have been; I have not said that it was so returned on the night of the election; the number 372 represents what has been claimed by the Union men of Burlington since the election as the vote given to Jarrett Stokes, on the night of the election; I do not know that it was so; the lesser number subtracted from the greater will leave 175, that is the alleged majority claimed by the Union men of Burlington township, since the election, to have been received by Mr. Lathrop; the number thirty-eight (38) originally stood where forty (40) now stands on Exhibit C (contestant), placed there by myself after the votes had been counted and the tally lists footed up; the number of solid tickets counted, footed up, and carried out on the night of the election on tally list Exhibit C (contestant), was five hundred and nine (509.)

*Question*—What was the aggregate number of solid and split tickets tallied for Mr. Lathrop on the night of the election, on tally list Exhibit C (contestant)?

*Answer*—Five hundred and forty-seven.

*Question*—What do the numbers 363 and 9 make in the aggregate?

*Answer*—They make 372.

*Question*—When was your attention first called to the figures in pencil mark on the right hand lower corner of tally list Exhibit C (contestant)?

*Answer*—When Keegan made them up in the Council chamber; my attention was next called to them on the Saturday night, when Mr. Lippincott and myself met Messrs. Roberts, Watts and Pugh at Lippincott's house; Watts, in looking over that tally list, discovered them, showed them to his friend Roberts immediately, pushed them to him slyly, and after that Mr. Watts asked, I think, Mr. Lippincott and myself who made them, or if we knew who made them, or words to that effect; Lippincott, I think, said that he did not know who made them, or words to that effect—I do not remember the precise language—and I said in answer to a question, or rather suggestion of Mr. Watts, "they are not my figures, and I do not know or recollect who made them," or words to that purpose, I do not remember the precise language; I made that answer because at that time I did not recollect; it had passed from my memory; this was, I suppose, about ten days or two weeks after the election; I think there was something said about them on the Monday following; I do not know that I can swear with any degree of certainty that there was anything said about them on the Monday following; I think there was.



*Question*—Did you not state positively in your original examination before the Master, that your attention was called to those figures, on the following Monday at Mr. Lippincott's house?

*Answer*—I may have done so, and I have not denied it here.

The question is repeated; did you not so state?

*Answer*—I do not recollect it; I may have done so.

*Question*—Was not the attention of yourself, Lippincott, McDowell and Larzaleer called to those figures, at Mr. Lippincott's house, on the Monday, when you then went over the tickets, by Messrs. Roberts, Watts and Pugh, or one of them; and were you not asked to state when and by whom those figures were placed there, or words to that effect?

*Answer*—I think that something of that kind occurred?

*Question*—Do you not know that it did?

*Answer*—I am not positively certain about it; I neither affirm it or deny it.

*Question*—Did not Mr. Lippincott, McDowell, Larzaleer and yourself, upon that occasion, in answer to this inquiry, each state for himself that you had no knowledge as to when or by whom they were placed there, or how they came there?

*Answer*—I did not answer that question for myself, according to the tenor of the question as it is now put; I did say, on that Monday morning, that I did not know anything about them, and now I will give my reasons why I said it; it was in consequence of the conduct of Mr. Jonathan Roberts to me on the Saturday night while going to Mr. Lippincott's house, as well as the aggravating manner of Mr. Watts at Lippincott's house, on Monday morning, before the box was opened, and a threat of Mr. Watts at Lippincott's house, on Monday morning, to place me in a position where I would not have an opportunity to explain why there was but eleven tallies opposite the name of Jarrett Stokes upon the Democratic tally list, and the number fourteen carried out opposite to it; I thought that if that was going to be the case, they might get their explanations from the record, and not from any information which I could give them; this occurred before or at or about or after the time of opening the box; I may have been asked to explain the discrepancy between the eleven (11) tallied for Mr. Stokes and the fourteen (14) carried out opposite his name; it is possible; I do not recollect whether I did or did not explain this discrepancy to them at that time; I think that when I was asked on the Monday morning, at Lippincott's house, when and by whom those figures were made, I knew it; I am quite sure that I did.

*Question*—Did you not, when you in answer to a question touching your knowledge of these figures, by these gentlemen, denied all knowledge of them, tell a deliberate and wilful untruth?

*Answer*—You may call it what you please; I was determined to

give them no further information in reference to any thing; I think my manner was off-hand; they might have understood it.

*Question*—Understood what? that you were telling the truth or an untruth?

*Answer*—I am at a loss to perceive how they could tell whether I was telling the truth, or an untruth.

It first occurred to me that I knew who put these figures there, on the Sunday following the Saturday night, when we were at Lippincott's house; I think that Lippincott was the first man whom I told that I knew who put the figures in pencil there; I am under the impression that I told the other election officer also; I think that I told Lippincott on the succeeding week; I did not tell him at his house on that Monday; I did not tell either of the election officers at his house or any where else, on that Monday; Messrs. Roberts, Watts and Pugh, appeared to exercise some anxiety to know how those figures came there.

*Question*—Did they not say, that if you could give a satisfactory explanation about the figures, it would go a great ways towards relieving the difficulty, or words to that effect?

*Answer*—I do not remember any such remark; it might have been made; I do not recollect it.

*Question*—Did not these gentlemen, or some one of them ask the election officers and yourself, if the box and keys had been in your possession all the time, and if so how these figures could be placed upon the tally list without your knowledge, or that of some one of you, or words to that effect?

*Answer*—Such an expression might have been used; I do not recollect it.

I was examined as a witness before the Grand Jury, at the last December court, in this county.

*Question*—Were you, or were you not, asked the question, as to whether you had any knowledge of certain figures in pencil mark, on one of the tally lists kept on the night of the election, or words to that effect?

(Mr. Stokes objects on the ground that he has no right to make any inquiry as to what passed in the Grand Jury room.)

*Answer*—My recollection is that I was asked, if I knew who made those figures on the tally list.

*Question*—Did you, or did you not, in the first place testify before the Grand Jury, that you had no knowledge of any figures in pencil mark being upon either of the tally lists?

*Answer*—I have no recollection of having so testified before the Grand Jury; my impression is that I did not; I think that I was not asked about these figures before the tally list was shown to me; I think that one of the Grand Jurors handed me the tally list, and called my attention to it.

*Question*—When you were shown the tally list in the Grand

Jury room, and asked who made those figures in pencil mark on Exhibit C (contestant) did you not testify that you did not know?

*Answer*—I did not; I testified that Michael W. Keegan made them.

*Question*—Is there not an indictment pending against you, found at the last December term of the Burlington Oyer and Terminer, for a fraud alleged to have been committed at the last November election, in this township?

*Answer*—I know nothing of my own knowledge of an indictment having been found against me; all that I know is from what I have heard from others; I have not employed council to defend such an indictment; I entered into a recognizance at the last term of the Burlington county courts, to remove this indictment into the Supreme court.

Examination in chief resumed.—*Question*—Was there any difference in the mode of conducting the recounts, after the fall elections of 1861 and 1862, and 1863, at which you were present? if so, state in what that difference consisted?

*Answer*—The recount in 1863, was entered into more fully than the recounts of the years 1861 and 1862; for having gone over the solids of the years 1861 and 1862, there was not found among those solids any split tickets; at the recount in the fall of 1863, there were found three split tickets in the Union solids, with the name of Jarrett Stokes pasted over that of Mr. Lathrop, and therefore the recount was made of those together with the other splits.

*Question*—Did not the difference arise out of the fact that no errors were discovered in the first two years, and errors were discovered in the last?

Objected to as leading, by Mr. Lathrop.

*Answer*—It did.

*Question*—At the recounts in the years 1861 and 1862, were all of the ballots taken out of the box, or portions of them left in it?

*Answer*—They were all taken out.

*Question*—By the returns which you made, you returned but three rejected ballots, not counting the council notice to Lippincott, which was voted as a rejected ballot then, and now by counting that as a rejected ballot, there are still but 929 ballots; how do you account for that?

*Answer*—The council notice on the return was not counted as a ballot, because the solid Union ticket which was counted among the Union solids on the night of the election, was on the morning of the recount, the day after the election, erroneously counted among the splits; in other words we returned to Mr. Lathrop one more vote than he was entitled to on the morning of the recount, after the election.



*Question*—Were any of the three pasted tickets which were found among the Union solids, with Mr. Stokes' name on them, and therefore made splits, carried from their tallies among the Union solids, into the tallies among the splits, or was the correction only made by the figures?

*Answer*—They were not carried to the splits, but merely represented by the numbers above, opposite the solids; they are not represented in the tallies but in the figures, as far as Mr. Stokes is concerned.

*Question*—And where are they represented so far as the other candidates are concerned?

*Answer*—In the number five hundred and nine, (509) opposite the Union solids, as well as in the aggregate vote of each candidate upon the Union tally list, except Mr. Lathrop.

*Question*—And how as to Mr. Lathrop?

*Answer*—They are represented so far as Mr. Lathrop is concerned, by taking them from his aggregate of five hundred and nine (509) solids, making his aggregate number of solids five hundred and six, (506) to which add the number forty (40) opposite the name of Mr. Lathrop in the splits, making the number five hundred and forty-six, (546) the number returned for him to the board of canvassers.

*Question*—In answer to this question put by the gentlemen, "If the number 11 was originally on that tally list as you have stated, why did you scratch out, at all, to change it to 14?" You said, "for the reason that the left hand stroke of a 4, as ordinarily made would extend below the longitudinal line in making the figure 4?" explain what you meant by that?

*Answer*—I meant that if the figure 1 was permitted to remain, it would extend below the longitudinal line in making the 4, and it would therefore look more like the letter H, as I make a figure 4, for in my figures 4, as I make them the longitudinal line is placed somewhat above the pencil line upon which the figure is made.

*Question*—Was there any tally at all on the tally list which was made on the night of the election, for one of the votes which Mr. Lathrop had received among the splits, or in other words, was not one of his votes omitted altogether on the tally, in some way?

*Answer*—There was one vote for Mr. Lathrop omitted to be tallied on the night of the election, for the aggregate of the estimate upon that night amounts to nine hundred and twenty-eight, (928) whereas the poll book calls for nine hundred and twenty-nine, (929) which vote Mr. Lathrop did gain on the morning of the recount, the day after the election.

The ballots, poll books, &c., were put into the box and locked up, and taken away by the judge with the box; and since I have been clerk, I have always had the keys.

*Question*—Did you hear Mr. Keegan, in the council chamber at the recount on the morning after the election, offering to bet on the result of the election, as to the Assemblyman?

*Answer*—I heard him make a bet of one dollar, I think, in the council chamber on the morning of the recount, the day after the election, upon the result of the election as far as the Assemblyman was concerned, which bet was made after the first count had been completely finished and they were about to make, or had commenced the second count, or going over the tickets; he of course bet that Mr. Stokes was elected.

*Question*—Had you previously told Mr. Keegan, of the three splits which had been found among the Republican solids?

*Answer*—He came, I think, and looked at the tally list which I had made, and then I told him of it.

Those of the Grand Jury, at the last term of the court, with whom I am acquainted, with one exception, Mr. Thompson of Bordentown, are Republicans, and I have been told by others who are acquainted with them, that all the others with whom I am not acquainted, are Republicans.

Adjourned until 10 o'clock, on Wednesday, February 10th, at the same place.

WEDNESDAY, FEBRUARY 10TH, 1864.

Parties present as before.

James Russell Batten, recalled.—*Question*—In answer to this question put by me to you as the Master has now read it, "by the returns which you made, you returned but three rejected ballots, not counting the council notice to Lippincott, which was voted, as a rejected ballot then, and now by counting that as a rejected ballot, there are still but 929 ballots? how do you account for that?" you said as the Master has now read it "the council notice on the return was not counted as a ballot, because the solid Union ticket which was counted among the Union solids on the night of the election, was on the morning of the recount, the day after the election, erroneously counted among the splits;" does that answer correctly state what you said, or intended to say in reply to the question?

*Answer*—It does not; what I aimed to say was that the council notice to Charles Lippincott, was not considered by the judges of the election a ballot; I explained the discrepancy in this way, that on the morning after the election, at the recount, a solid Union ticket counted on the night of the election, among the Union solids, was on the morning of the recount erroneously counted among the splits, thus making the aggregate number of

votes nine hundred and twenty-nine, (929) without estimating in that count the council notice to Charles Lippincott.

Cross-examination resumed.—The solid Union ticket to which I have referred in my last answer, was, I think, found among the splits on the night of the election, and also on the morning of the recount; it was counted as a solid Union ticket on the night of the election; I cannot tell why it was not strung among the solids; I did not string the tickets; I think that it was counted as a solid on the morning of the recount, and afterwards as a split; I do not know how this mistake occurred on the morning of the recount.

*Question*—If the tickets had all been carefully read over, on the night of the election, or at the recount the next morning, would this mistake be likely to have occurred?

*Answer*—It might not have occurred; in all probability would not have occurred.

On the morning of the recount, before the count of the splits was commenced, some one of the election officers announced the number of solids on each ticket, such is my impression; I do not speak with any degree of certainty; I suppose that the solid ticket to which I have referred, was included in that announcement; I do not speak positively; I have no knowledge of the vote which I have stated, as having been omitted to be tallied for Mr. Lathrop on the night of the election, being tallied for any one else; we got through with the recount and making out the returns and all on Wednesday morning about one, or half-past one; it may have been a little later; I suppose that we got through recounting the votes about half-past twelve o'clock; I had no means of knowing the precise time; we did not commence until a little after ten o'clock.

Examination in chief resumed.—The vote which was omitted to be tallied for Mr. Lathrop on the night of the election, was not tallied for any one else on that night.

*Question*—Was it afterwards tallied to any one, and if so when and to whom?

*Answer*—Upon the morning of the recount the day after the election, to Mr. Lathrop.

J. R. BATTEN.

Sworn and subscribed this 10th day of February, 1864, before me.

JOHN RODGERS, M. C. C.

Daniel Deacon, a witness produced on the part of the respondent, alleging himself to be conscientiously scrupulous of taking an oath, and being duly affirmed, says: I know Joseph P. Deacon, the ticket agent at the Camden and Amboy railroad office in this town; I do not recollect having any conversation with him as re-



gards Mr. Lippincott, no names were mentioned; I asked him about the ballot box being taken out of the office; I cannot recollect the precise words; he stated to me that the judge or judges had left the ballot box there a little while, while they stepped out in the bar-room or somewhere; I cannot recollect, and then came and took it out the same as any other judges of election would do, or had; I cannot recollect which; this was about two weeks after the election, as near as I can judge.

**Cross-examination**—This conversation took place at the platform at the depot; I think I was setting in the car and Mr. Deacon was on the platform; the car was on the track; I do not think there was any one in the car; it was the hind car; some one might have come into the front of the car, but I did not notice it; I think this was at the train which leaves Bordentown at a quarter before ten going down; this is the six o'clock train from New York; I will not be positive whether it was that line or Maxwell's; I think that passengers were getting in and out of the cars; I think I was talking to him through the window of the car; he was a little piece off and I called to him.

**Question**—How long were you talking together?

**Answer**—I should not think that it was over a minute.

Mr. Joseph Deacon is usually more or less engaged when the lines come up; I cannot say whether he said the judge or the judges brought the box to him; I did not tax my memory with it; I recollected a certain part of it when my attention was called to it by outside clamor; my attention was called to it by hearing out doors that the ballot box was stolen from Mr. Deacon's office, or taken; my attention was called to it before my conversation with Mr. Deacon, and that was the reason why I had the conversation; I mentioned this conversation to several persons in Bordentown; I do not recollect to whom I first mentioned it; the first person to whom I recollect to have mentioned it was I think Mr. Cannon; I cannot say how long this was after the conversation, it might have been a week, ten days, or two weeks; I have had no other conversation with Mr. Joseph P. Deacon about it, to my knowledge.

**Question**—State precisely the language used by Mr. Deacon and yourself upon that occasion?

**Answer**—I asked him, Mr. Deacon, how it was, or somehow that way, as regards the ballot box being taken from his office, or somehow that way; I cannot remember the precise words; he stated to me that the judge or judges had left it in there and had stepped out in the bar-room or somewhere, and then came and got it as other judges of election would do; that was the way I understood him; it was a short conversation any how; that I believe is all I know about it; the train was about starting, Mr. Deacon stepped away for the cars; I cannot recollect all the conversation which took place.

*Question*—Are you quite sure that under the circumstances, and at the place where it occurred, and from the distance you were apart, you may not have misunderstood him?

*Answer*—I do not think I did, as regards the ballot box.

Examination in chief resumed.—*Question*—You were asked by Mr. Stratton, whether you were quite sure, I now ask you to answer that question, whether you are certain or uncertain?

*Answer*—To the best of my knowledge, I am certain.

When I called to Mr. Deacon, he came to within about five feet of me, I heard him distinctly.

*Question*—What was the general import of the clamor which you had heard, in regard to this ballot box having been taken from that office?

(Objected to by Mr. Lathrop.)

*Answer*—I heard it in several places, not recollecting names, that Joseph P. Deacon said that it was stolen, in some places, in others taken out of his office, which caused me to inquire of him as regards the ballot box, and I done so.

Cross-examination resumed.—I am an Andrew Jackson Democrat; I belong to the Democratic party.

DANIEL DEACON.

Affirmed and subscribed before me this 10th day of February, 1864.

JOHN RODGERS, *M. C. C.*

Michael W. Keegan, a witness produced on the part of the respondent, being duly sworn says: I am now and I was at the time of the last election one of the police officers of the city of Burlington; night police; I was in Burlington on the day of the election, in November last and participated in the election; I was in the City Hall a portion of the time, when the officers of the election were engaged in counting the votes on the night of the election; I do not think that it was later than half-past eight when I was there; I cannot say what the officers were doing when I went away; there was a crowd on the platform; I was not on the platform; I suppose that they were counting the votes; the count was still going on; the judges were Lippincott, McDowell and Larzarleer, the clerk, Batten.

*Question*—Did you see or have any conversation or intercourse with any of those officers that night, after leaving the City Hall, if so, state when and where it was as nearly as you can tell?

*Answer*—I first saw them in this house, Kinsey's hotel; I saw all of them; I had no conversation with any of them excepting Mr. McDowell, and him I met in the street.

It was between twelve and one o'clock that night, I should suppose about half-past twelve, when I saw the election officers in Kinsey's hotel; I remained there ten or fifteen minutes; I was

drawn here by the crowd, being on duty at the time; I am in the habit of visiting the hotel; I did not converse with any of the election officers when I saw them that night; I did not see or hear anything of the ballot box while here; I did not know it was in the house; I saw Mr. McDowell and Mr. Lippincott, together, afterwards, pass up Pearl street; I was fifteen or twenty feet off from them; I did not speak to them; they were going up Pearl street towards Mr. Lippincott's house; I met Mr. McDowell and some others on the corner a few moments after, on his return; no one was with me; I met two others, Thomas M. Richardson and Israel Wooden, at the corner; we were all four together at the corner; Mr. McDowell said that Kinsey was open, and invited us to take a night cap; we came to Kinsey's and remained some ten or fifteen minutes; Richardson and Wooden went away with me; we left McDowell here; that was the last of my being here that night; it was then between one and two o'clock; it was nearer two than one, I think, I cannot say positively; I was in the bar-room and the front parlor only, at Kinsey's hotel that night; I had no conversation with any of the election officers that night, except as I have stated with Mr. McDowell and coming with him here; I did not observe whether Mr. Lippincott had anything in his hands or arms when I saw him and Mr. McDowell turn and go up Pearl street; I did not see the ballot box, from the middle of the afternoon until the next morning, at the recount.

*Question*—Do you know or have you any information in any way, of that box having been opened that night?

*Answer*—No, sir, I have no such knowledge.

After leaving Kinsey's I went up town, and from there to Mr. Richardson's house; Richardson and Wooden accompanied me; it was about two o'clock when I got to Richardson's house, I should think; Richardson was then and is now city constable; we went from Richardson's house out on duty; I got home about three o'clock; I separated from Richardson at his house about half-past two o'clock; I do not think that the night was light; I am under the impression that the night was cloudy; I do not recollect seeing any moon that night, until when I went home; I saw the moon, then, breaking through the clouds in the east.

(Mr. Stokes here offered in evidence an almanac of 1863, to prove that the moon rose on the night of the third of November, at fifty-one minutes after eleven o'clock. Exhibit N on the part of the respondent.)

I was not with Mr. Batten that night, either in Delaware street or any where else in company; I got up the next morning at half-past nine o'clock, as nearly as I can recollect; I went first to my place of business, about ten o'clock, I should think; it may have been a little after, from there I went first to Higbee's hotel, and from thence to the City Hall; I got to Higbee's between ten and



eleven o'clock; I remained there some ten or fifteen minutes, I cannot state positively, it is all guess work; from there I went to the City Hall; when I got to the City Hall they were recounting the vote, in the council chamber; I saw Mr. Batten there; he was sitting at one of the desks keeping tally list; I did go up to him and speak to him during the morning before I left there; he told me of the mistakes found in the tickets—the three mistakes.

*Question*—Do you mean the three pasted tickets?

*Answer*—Yes, sir; I had not heard nor did I know anything of that until then.

The attention of the witness being directed to the pencil figures on the lower right hand corner of Exhibit C (contestant) he says: I made those figures in the council chamber, on that morning; during the morning, after eleven o'clock, I suppose, somewhere about that time; after Mr. Batten had told me of the mistakes.

*Question*—For what purpose or with what object did you make them?

*Answer*—I made them for the purpose of ascertaining whether the changes in the vote here would overcome the reported majorities in the other townships; my calculation was that Lathrop would be elected by one vote if those reported majorities were correct; the number, 175, was intended to represent the majority in this township, the reported majority in this township.

*Question*—Were the rumors in regard to his majority in this township uniform or no; and if not uniform, what were they?

*Answer*—There were several reports here; one was 168, one 172 or 173, I am not positive which, and one 175; I put the number 175 down from the reports which were current in the council chamber that morning, and from these figures 547 take 372, will leave 175; those figures were also made by me; the figure 4 under 175 represents Willingboro'; there was a rumor that Willingboro' had given 4 instead of one (1), as before reported; the figures 11 represent the rumored majority in Beverly.

*Question*—Were there any conflicting rumors in reference to the majority in Beverly?

*Answer*—There were; one report was that it was 9 majority, and the other 11; the number 155 represents the majority for Stokes in Cinnaminson.

*Question*—Were there any conflicting rumors in regard to that?

*Answer*—There was a report that two doubtful votes had been given to Mr. Lathrop in Cinnaminson; the number 28, under 155, represents the majority for Mr. Stokes in Springfield.

*Question*—Why, in making that estimate, did you give the highest reported majorities for Mr. Lathrop to him, and to Mr. Stokes the lowest reported majorities?

*Answer*—I do not know that I can answer that question exactly, because I gave to Mr. Stokes the majorities which were reported

for him, they were the only figures I heard, there were none others to give him, I gave Mr. Lathrop the highest majorities reported, so as to find out whether the mistakes here would overcome those reported majorities; the result then was one (1) in favor of Mr. Lathrop; I made a bet in the council chamber that morning that Mr. Stokes was elected; it was after I had made this estimate; I was in favor of the election of Mr. Stokes at the last election.

*Question*—Did you, during the day, alter any tickets by erasing the name of Mr. Lathrop and inserting that of Mr. Stokes?

*Answer*—I think I did, but I have no distinct recollection.

The string of ballots headed "Union" was here taken by me, in the presence of the parties, from the ballot box, and the attention of the witness being directed to the name, J. Stokes, in pencil, on ticket 509 on that string—

*Question*—Is that in your handwriting?

*Answer*—It has somewhat of that appearance, but I cannot swear to it; the attention of the witness being also directed to the name "Jarret Stokes," written in ink on ticket 511 on that string—

*Question*—Is that name, Jarrett Stokes, written in ink, in your handwriting?

*Answer*—It has that appearance; I could not swear positively to it.

*Question*—If those names, or either of them, were written by you, were they so written before or after they were voted?

*Answer*—Before, most certainly, not afterwards, by me; I never saw the tickets, as strung, except as I saw them in the council chamber and here on this table; I never examined the face of them.

I left the council chamber on the morning of the recount, while they were recounting after they had gone over them the first time, between eleven and twelve o'clock, I suppose; I then went to Higbee's hotel, I think; I saw Samuel Schuyler there; there was considerable betting going on between him and others on the result of the election; the odds were two to one on Mr. Lathrop, and a premium to take it; I saw Schuyler engaging in it; he was not backing any one; they were offering two to one on Lathrop, and he took it; he bet on Stokes; as nearly as I can get at it, this was between eleven and twelve o'clock; the information given by Mr. Batten to me in relation to the three pasted tickets, was given to me privately.

*Question*—So far as you know or could ascertain, were those mistakes known at Higbee's when you got back there from the hall?

*Answer*—I think that they were not known.

I went from Burlington to Beverly with Thomas M. Richardson that day; we left Mr. Higbee's hotel about fifteen minutes past twelve o'clock, as near as I can guess; we went right down Broad

street; we went in a little wagon; I had not ridden with Richardson down Broad street that day before; we went to Beverly to ascertain the majorities in Beverly township; I learned it to be nine majority for Mr. Lathrop; I telegraphed that result to Joseph L. Wright.

*Question*—Did you hear of the League Committee visiting judge Lippincott's on a Saturday evening, at some period of time after the election, for the purpose of examining the papers and counting the ballots.

*Answer*—I did hear of it after they had met there.

*Question*—Had you any conversation with Mr. Batten, either before or after that Saturday evening, in reference to the figures made by you on the right hand lower corner of Exhibit C (contestant)?

*Answer*—I had, after that evening.

(Mr. Lathrop objects to any conversation between the witness and Mr. Batten.)

It was on Sunday, the day following the Saturday evening, we had a conversation in regard to the matter; I called to his mind in that conversation the fact that I made those figures.

*Question*—How came you to do so?

*Answer*—We were talking about this matter, and he said that there was some trouble about some figures upon the tally list, and I told him that they were very easily explained; I told him that he knew that I made them; he did not at first recollect it; he recollected it after I mentioned it.

*Question*—Did any thing occur between you and him at the City Hall, at the time you made those figures? if so state what it was?

*Answer*—He complained about my marking upon his tally list, and said that he would rather that I would not do it.

*Question*—In your conversation on Sunday, did you remind him of that complaint?

*Answer*—I did.

I have been a voter in the city of Burlington, for fifteen years; I have acted upon several occasions as one of the judges, and also as clerk.

*Question*—Do you know whether any custom has prevailed here in reference to a recount on the morning after the election? and if so state what it is?

*Answer*—It has always been customary to adjourn over at night, and recount and make out the returns the next morning.

Being cross-examined says:—I mean by a recount on the morning after the election to recount the tickets; I do not know of but one way to do it.

*Question*—Do I understand you to say, that it has been the custom in Burlington for many years past, for the officers of the election to meet on the morning after the election, and make a particular recount of the ballots which had been cast at the election on the preceeding day?



*Answer*—I do; I can not specify the number of times I have known it to be done; I have known it frequently; I think this custom has prevailed in relation to the State and county elections; this was done to finish the returns and make out the certificate accordingly.

*Question*—Could not that be done from the count which the law requires the officers to make after the polls are closed on the night of the election?

(Objected to by Mr. Stokes.)

*Answer*—I do not know that the law requires it to be done on that night, and consequently cannot answer the question.

I think that this return could not be made from the count which the officers of the election always make after the polls are closed on the night of the election, for they are sometimes erroneous; the recounts the next morning are not always correct.

I hold my appointment as night police from the mayor; I have held it since the sixteenth of April last; I was in Kinsey's house twice or three times on the night of the election; I was first here in the early part of the evening; when I came the second time there was quite a crowd here; that was later; I first went into the bar-room; I saw I think when I came here Mr. Fenimore, the two Mr. Wetherills, Mr. McDowell, Mr. Lippincott and several others; I am not positive that I saw Mr. Batten; I think I saw him before I left; I think I saw Mr. Larzaleer; I saw Jarrett Stokes; I remained here ten or fifteen minutes as near as I can guess; my duties were out; I was in the parlor once; I saw in here those persons whom I have mentioned chiefly; I believe that they were not talking about the election in the parlor, they were listening to an anecdote from Mr. McDowell; in the bar-room some of them were discussing the election, some of them were talking about other things; I had heard some of the returns that night, which I had marked on the tally list; I think that I had heard from Springfield and Willingboro', and I am under the impression that I had heard from Cinaminson, but am not certain, but not the figures which I placed upon the tally list, for those were rumors which I heard the next morning; I heard that night that the majority for him in Cinaminson was 155, but I also heard that there were two doubtful votes; I heard that Springfield had given twenty-eight majority for Mr. Stokes; I heard that Willingboro' had given one (1) majority for Mr. Lathrop; I did not also hear four (4) that night, I am quite sure; I heard from this township, 168, 172 and 175; I am under the impression that there was a report here from Beverly, but I cannot state positively what it was; I cannot state whether the reported majority was eleven (11) or not; when Mr. McDowell and Mr. Lippincott passed me up at the corner, I do not think that it could have been more than a minute or two, or three before Mr. McDowell returned; it was a

very short period; when I returned to Kinsey's hotel with McDowell, Richardson and Wooden, I found here those whom I have mentioned; Mr. Stokes and Mr. Lippincott were not here; Mr. Richardson's office as city constable does not necessarily make him one of the night police; he was with me in his capacity as city constable; I do not know that he was going to serve any process that night; I remained at his house inside of twenty minutes; we went in to get a glass of cider; that was the only purpose for which I went in his house; I saw no one there; we returned to his house again inside of an half hour; we went in and took another glass of cider; we did not remain there any time then, we left immediately.

The attention of the witness being directed to tally list Exhibit C (contestant), he says: the number 372 is subtracted from the number 547 on that, the number 372 represents the reported vote for Mr. Stokes in this township, the rumored reported vote the next morning; I did not hear it that night; I got it in the council chamber the next morning; I cannot tell of whom I got them; the number 175 was the result of my calculation; it was a subtraction, the only way that I could arrive at a majority; Mr. Batten told me that there were three tickets found among the Union solids with Mr. Stokes' name on them; that is all he told me, but I remarked at the time that that would be three off and three on, which would make a difference of six (6); he answered in the affirmative; he did not tell me that Mr. Lathrop had gained two votes on the count; I did not believe the rumors, and that is the reason why I bet on Mr. Stokes, altho' my calculation elected Mr. Lathrop, it elected him by only one vote; I did not believe the rumor from Willingboro', because I did not think it likely; Mr. Stokes had told me the vote in Willingboro', and I thought that he would be correct; there was also a report that the majority in Beverly was only 9 instead of 11; I heard that report for the first time in the morning, in the council chamber; I cannot tell from whom; I do not know that I can name any person whom I induced on that day to vote a Union ticket with the name of Mr. Lathrop erased, and that of Jarrett Stokes put on by myself, and if I did know, I would not answer, that is a private matter; I do not recollect of any such person or persons; all the betting of which I have spoken as having taken place after I left the City Hall, occurred in Higbee's bar-room; I mean on election matters; I do not know of any one who was offering to bet odds on Mr. Lathrop, but Mr. Edward Riggs, he offered me two hundred to one hundred, and offered me five dollars to take the bet; I cannot state with whom he offered to bet, and with whom he did bet, except myself, he bet me five to two and-a-half; he did bet with others, but I did not see them; I think that it was not generally known in the council chamber that the error, of which I have spoken as having been

communicated to me by Batten, had been discovered, it may have been known, but I think not; we got to Beverly before three o'clock; we got home by three o'clock; I do not know at what time we got to Beverly, and I do not intend to say.

*Question*—Can you come no nearer to the time when you arrived at Beverly, than you have already stated?

*Answer*—To oblige counsel, I will say two o'clock; I cannot come any nearer to the time than that; we left Burlington about fifteen minutes past twelve; I do not know how far it is by the turnpike road from Burlington to Beverly; I do not know how far it is, by the route usually travelled, from Burlington to Beverly; I suppose it is three or four miles, four miles probably, it is guess work though; I do not think we stopped; I have no recollection of it; I think we proceeded directly from Burlington to Beverly; I have no idea of the rate of speed at which we traveled; I think it most likely that the horse went most of the way on a trot; I cannot say that we were in Beverly by one o'clock at least; I cannot say whether we were more than three quarters of an hour upon the road; I have no distinct idea upon the subject; I cannot say whether it took half an hour or an hour to drive to Beverly on this occasion; I do not think that it took more than an hour on that occasion; I do not say that we were in Beverly as early as a quarter after one, or thereabouts; we had Mr. Abraham Kelly's horse and wagon on that occasion.

Adjourned until ten o'clock on Thursday, February 11th, 1864.

THURSDAY, FEBRUARY 11, 1864.

Parties present as before.

Cross-examination of Michael W. Keegan continued.—Upon reflection and from conversation with Mr. Richardson, I think it must have been about one o'clock, or in that neighborhood, when we got to Beverly; I first saw Mr. McElroy when I got there; I saw him at his store; from there I think we went down to the hotel; I did not go to Mr. Perkins' shop while at Beverly; I learned from Mr. McElroy that Mr. Lathrop's majority was but nine; I did not also learn from Mr. McElroy that the majority for Mr. Lathrop was eleven (11), as the vote was announced the night before; I did not ask the question; I do not, of my own knowledge, know that there had been a recount in Beverly; I did not hear so at that time; I did not hear so during that visit at Beverly; I did not during that visit see any of the election officers of Beverly township, unless Mr. McElroy was an election officer; I do not think that we remained there over an hour, probably not so long; we drove from there to Cinnaminson, to Bridgeborough; our object in going there was to obtain the vote in Cinnaminson; we



saw several there; I do not recollect distinctly; we saw Mr. Wallace Lippincott, Mr. Jarrett Stokes, and several others, whose names I do not recollect; I do not know Mr. Samuel Hunter, or Mr. Conrow, the clerk of the township; I do not know that the clerk of the township was there; these persons and myself were at the hotel at Bridgeborough; I did not see the ballot box of that township; I did not see the returns; I understood, I think from Mr. Stokes, that the majority in that township was one hundred and fifty-five (155); I did not, at that time, hear anything of the two doubtful votes of which I spoke yesterday; I might have done so, but do not recollect it; there was not at that time a talk about taking those so called illegal votes from Mr. Lathrop's poll, that I recollect; I may as well state that we were there but a very short time; I think that there was a talk about taking those votes from Mr. Lathrop's poll, on the night of the election, and also the next morning, before I left Burlington, I do not recollect distinctly by whom; I cannot say; when we left Cinnaminson, we went directly home; we did not come by the way of Beverly; I do not recollect that Mr. McElroy told me that an error had been discovered in the count of the night before; I do not think that he did; we got back to Burlington about three o'clock; our time was limited, and we got back just about three o'clock; we had to be home by three o'clock; we could only get the horse until that time; this trip was made entirely at our own suggestion; no one else suggested it; I cannot tell how I got the number 547, in making the calculation to ascertain Mr. Lathrop's majority in this township; my impression is that I got all the figures which I made on the tally list, (Exhibit C), from the current rumors of that morning; I met Mr. Batten in the street, I think, when I had the conversation with him on Sunday, about making the figures on the tally list, Exhibit C (contestant); I am quite sure that it was not at my house; I do not think that Mr. Batten was ever in my house since the election; in talking with me, in general conversation, he told me about the trouble in reference to those figures upon the tally list (Exhibit C, contestant.)

Examination in chief resumed.—*Question*—In answer to a question which I put to you, you stated, as the Master has now corrected your answer, that you thought you altered some tickets on the day of the election, by erasing Mr. Lathrop's name and inserting that of Mr. Stokes, but that you had no distinct recollection; I now ask you whether you meant by that, that you had no distinct recollection of altering the tickets, or that you had no distinct recollection of the person or persons for whom you altered them?

(Objected to by Mr. Lathrop, as leading.)

*Answer*—I mean that I have no recollection for whom I altered them, or how many I altered.

*Question*—In answer to another question, as the Master has now corrected your answer, you stated, in reference to the tickets taken from the ballot box, that you had never seen those tickets, “as strung,” after the election, except here, and at the council chamber on the morning of the recount; I now ask you whether you had seen them at all after they had been voted, except on those occasions?

*Answer*—I never saw them only on those occasions.

I know William S. Marter; he is my brother-in-law; he resided with me on the night of the third of November last; he boards with me; I saw him on that night when I returned home about three o'clock; he let me in the house; I left him in the kitchen; he was lying on the settee, sick, when I went to bed.

Cross-examination resumed.—*Question*—Do you state positively that you altered any Union or Republican ticket or tickets on the day of the last election, by erasing the name of Mr. Lathrop, and putting thereon the name of Mr. Stokes, which ticket or tickets were voted at that election?

*Answer*—I have no doubt but that I did, from the face of those tickets which were shown me; I believe that tickets 509 and 511, which have been shown to me, are the tickets so altered by me; I cannot swear to it, but they have that appearance.

*Question*—Did you at the same time, and with the same pen or pencil with which you erased the name of Charles C. Lathrop, write the name of J. Stokes, or Jarrett Stokes?

*Answer*—I am under that impression, but cannot say positively; I do not recollect.

I cannot say where I was when I made those alterations; I cannot say for whom I made them; I cannot say that the person or persons for whom I made those alterations, applied to me to make those alterations, but presume they did.

*Question*—Do you know the persons, or either of them, who voted those tickets, or either of them, on the day of the last election? if so state who they were?

*Answer*—I do not know.

*Question*—Do you now swear that those alterations are in your handwriting?

*Answer*—I have reasons to believe that they are, for they have that appearance; I am not any more certain of this than I was yesterday, that is after I saw the tickets yesterday; I believe that there is an indictment pending against me, charging me with having altered some tickets at the last election; I never saw the indictment.

Examination in chief resumed.—I have no knowledge of my own of the political complexion of the members of the Grand Jury which found that indictment; I have been told that they are all Republicans but one.

M. W. KEEGAN.

Sworn and subscribed before me this 11th day of February, 1864.

JOHN RODGERS, *M. C. C.*

J. Morris Leeds, a witness produced on the part of the respondent being duly sworn, says:—I was twenty three years of age on the twenty-first day of January last; I am a single man; I was born in this city; my mother is living; my father is deceased; my mother resides in this city; my father died on the 26th of August last; he resided in this city at the time of his death; my parents have resided in this city from the time of my birth, up to the time of the death of my father, and my mother has resided here until now; my residence has been in this city until within about two years ago, when I removed to Pennsgrove and commenced teaching between Pennsgrove and Sharpstown, about five miles from Pennsgrove, and three miles from Sharpstown; my post office address was Pennsgrove; I went there to engage in teaching.

*Question*—Did you go there for the purpose of making that your permanent home, or simply for the purposes of teaching?

(Objected to by Mr. Lathrop as leading.)

*Answer*—I went there at the solicitation of the trustees of the school I taught, to take that school, not knowing whether I would make that my permanent residence or not, from the fact that it was a strange neighborhood to me, of which I knew but little, and did not know that I would like the place, and moreover I did not know whether pecuniary matters would guarantee my staying there, and whether the salary would be sufficient.

*Question*—After going there and remaining as you stated, did you subsequently return to Burlington, for any purpose, and if so for what and when?

*Answer*—I came to Burlington very frequently during my stay in Salem county, in order to visit my parents and friends.

*Question*—Did you make any change in your residence in the month of March last?

*Answer*—I did, sir, to Burlington, the reason why I changed my residence to Burlington, was that the school which I had been teaching I gave up; my residence ever since has been in Burlington city; I voted at the election held in Burlington on the third of November last; my vote, or right to vote at the time I presented it was challenged; I stated the particulars of the change of my residence from Pennsgrove to Burlington, and afterwards I was sworn that my residence was here; my vote was taken; I know Godfrey H. Hays; I did not state to him on the 4th day of last July, or at any other time since last March, at Mitchell's ice cream saloon in this town or any other place, that I was a resident of Pennsgrove; I mean that I did not tell him that my residence was there since March last; my residence was there previous to March last.



Being cross-examined, says: I voted for Jarrett Stokes as a member of the General Assembly at the last election; I am now engaged in teaching school at Pennsgrove in the county of Salem; I have been so engaged in the school which I am teaching now, since the first of December last; I was engaged in teaching for a very short time in the basement of the Methodist church at Pennsgrove, this was a select school; I think I commenced about the tenth of May; I taught about ten weeks; the school was entirely under my own control; I issued a circular or prospectus of that school; it was not my intention at that time to establish a select school upon a permanent basis; I issued a circular because there had been a person teaching in the same place, the basement of the church, immediately before I commenced teaching there, who had issued a circular, and in order to let the inhabitants of Pennsgrove and vicinity know concerning the existence of such a school, and in order as I thought then to secure a larger attendance of scholars; the school before that had sustained a high character, and I wished to sustain that character, and I thought that I could do that, best by issuing a circular; those are the reasons why I issued a circular; I had voted at Pennsgrove, before last November a year; I paid a tax in the year 1863 in Pennsgrove; considering myself at that time a resident of that place, this was a poll tax.

Examination in chief.—The last poll tax which I paid was here; I paid it to Mr. Larzaleer, the collector of this township.

*Question*—Was not that the poll tax which was assessed against you after you removed here in March, 1863?

*Answer*—It was, sir; the poll tax which I paid in Pennsgrove was the poll tax which was assessed against me in the preceeding year, the year 1862; It did not occur to me that this was the commencement of 1864; when I moved from Pennsgrove in March, 1863, I brought my trunk, clothes, books and every thing with me, with the expectation that I was leaving Salem county finally and perpetually, as a place of residence; I have not since changed that determination; when I returned in May to take charge of the select school, I took a portion of my goods with me, as I could not of course get along without some of them, all which was not absolutely necessary for my use there I left behind, at home; when I gave up the select school, I brought every thing home with me again; my goods were all with me here, at my mother's, when I voted in November last; the tax which I paid to Mr. Larzaleer was two dollars.

Cross-examination resumed.—The reason why I brought my goods home when I gave up the select school, was this, my father was very seriously ill at the time, and the prospect was that he would not recover; this brought me back to Burlington; I did not think that I would be able to continue teaching then, and that was one reason why I did not intend permanently to establish a select school, because he was seriously sick at the time when I went down there; I paid my tax to Mr. Larzaleer within three months; I did not pay him yesterday, I paid him to-day; I wish to make an explanation; when I went down to Penns-

grove to commence operations as a teacher there ; I involuntarily neglected to pay the tax which was due here ; after I had been there some two or three weeks, I happened to think that I had not paid my tax ; I wrote to my brother stating that fact, and requesting him to pay my tax, but he neglected to do it, and I did not know until I returned yesterday, that it was still unpaid.

J. MORRIS LEEDS.

Sworn and subscribed before me this 11th day of February, 1864.

JOHN RODGERS, *M. C. C.*

Isaac H. Price, a witness produced upon the part of the respondent, being duly sworn, says : I voted at the last November election in the township of Burlington ; I voted for Jarrett Stokes ; my residence up to that time since last April a year had been in Burlington ; I have since changed my residence, to the city of Trenton, on the fifteenth of November last ; I do not remember whether it was in September or October, I think it was about the first of October, that I gave up my house and went to Trenton to work for Mr. English, not knowing how long I would stay when I went to him ; I was not to leave him without any one, and he was not to discharge me without giving me two weeks' notice ; I worked on with him from that time until the third of November, and that night between seven and eight o'clock, I made a permanent bargain with him to stay on ; the next day I set to work to find a house ; in about a week I found one ; during the time from the first of October, until I got a house, my wife was at her father's on a visit ; I was boarding in Trenton.

*Question*—How came your wife and family to go to her father's at the time when you first went to Trenton ?

*Answer*—Because she preferred going there, and being with her father and mother, rather than to be down in Burlington alone ; her father and mother reside in Hamilton township, about four miles above Trenton.

Being cross-examined, says :—When I gave up my house in Burlington, I left my goods in it, packed away ; I left all of them there ; I moved a part of my goods to Trenton some time in October ; I do not remember what time ; I do not remember how long before the election it was ; my goods went to Trenton by railroad ; in October I took chairs, tables, beds and household goods generally ; I took about half of my goods to Trenton in October ; I left two beds, half-a-dozen chairs, carpet and a number of things ; I do not remember what they were ; I left all of my most valuable goods here ; they were not left as a security for rent or debt ; I lived in John Silpath's house in Burlington ; I rented of him ; I did not come down here on purpose to vote on that day ; I was in Philadelphia that day ; I had some little doubt about my right to vote here ; I consulted John Silpath whether I had a right to vote ; he was not the first one though ; I do not recollect whether I consulted with Mr. Ross about my right to vote ; I said something to Mr. Charles P. Fort about it.

*Question*—Did you not ask Mr. Fort to explain to you the law, in relation to the right of voting?

*Answer*—I do not remember what he said about the law; he said I had a right to vote, as I had not removed my goods permanently away; Mr. Jacob Hughes also told me so; Mr. Silpath said he thought I had, but he did not know; I moved to Mrs. McClurg's house, number 128 Greene street, when I first moved to Trenton; I told Mr. Fort that I thought that I had lost my vote; I told him I had not moved all my goods away; he said that I had a right to vote; he asked me if I considered Burlington my residence, I said that I did; I went from his store right up and voted.

Examination in chief resumed.—It was before I voted that I consulted with my friends in reference to my right to vote, as I have stated; it was before I asked them, that I entertained a doubt as to my right to vote; I did not entertain any doubt as to my right to vote, at the time I did vote; the persons whom I consulted belonged to both parties; two were Republicans and two were Democrats.

*Question*—Did any of these gentlemen, after you had explained to them your condition, entertain any doubt as to your right to vote?

*Answer*—Not that I know of, they did not say so to me; my vote was not challenged.

The second lot of my goods which I took to Trenton, were taken by the Edwin Forrest; these goods were taken to Trenton before I got a house, some two or three weeks before; I took a portion of my goods to Trenton before I took a house, because my wife preferred to use them to using her mother's; they were sent out into the country to her.

Cross-examination resumed.—*Question*—Where did you reside in the city of Burlington, on the third day of November last?

*Answer*—The best way that I can answer that is; I ate my breakfast in Trenton; I ate my dinner in Philadelphia, and I ate my supper in Burlington; I do not know that I had any residence that day better than that; I considered that I had my residence in Burlington.

Examination in chief resumed.—I was in Burlington that day; I lived in Burlington then that day.

*Question*—Wherever you were about in Burlington, then, on that day, it being as you believed your place of residence you were residing there, were you not?

*Answer*—I did.

Cross-examination resumed.—I was in Trenton on that day; I did not live then in Trenton on that day; I was in Philadelphia on that day; I did not live in Philadelphia then on that day when I was there.

ISAAC H. PRICE.

Sworn and subscribed this 11th day of February, 1864, before me.

JOHN RODGERS, *M. C. C.*

Jonathan Knight, a witness produced on the part of the respondent, being duly sworn, says: I reside in the city of Burlington; I have lived here nearly twenty-four years; I was at the council chamber during the



recounting of the votes on the fourth day of November last ; I saw the officers of the election when I first went in, I think pretty much all the officers of the election ; I saw Mr. Batten there, Mr. Larzaleer, and Mr. McDowell ; I cannot say positively as to Mr. Lippincott ; I saw Michael W. Keegan there.

*Question*—While you were there, did you hear Mr. Batten say anything to Mr. Keegan about marking on his tally list ; if so, state what was ?

*Answer*—I was sitting upon the opposite side of the council chamber, where the recounting was going on, and I remained there I cannot tell how long, it may be an hour, perhaps ; there was quite a number of persons in there ; I could hardly see through them to see the parties who were counting off or recounting ; I heard Mr. Batten make a remark, “Why are you marking on the tally list,” in rather a pettish way ; “why don’t you get a piece of paper ;” that is about all I know of it ; Keegan made a reply, “this will do no harm ; what is the difference, it will do no hurt ;” it has generally been customary since I have been a voter here, in consequence of the noise and confusion generally on the counting of the votes on the night of the election, when the judges were not exactly satisfied in regard to the result that night, they had a recount the next morning.

Being cross-examined—I cannot positively specify any State and county election when there was a recount the next morning ; I should suppose that there were from twenty to twenty-five persons in the council chamber at the time to which I refer ; I was sitting on the opposite side of the council chamber from where they were recounting ; I suppose that it was ten feet off, at least ; the principal part of the crowd was between me and Mr. Keegan ; at the time Mr. Batten made this remark, I did not see Mr. Keegan engaged in anything ; I could not see him ; I understood Mr. Batten to say “Mike” when he made the remark ; this must have been very near twelve o’clock, I cannot tell, though, it is all guess-work ; my attention was first called to this remark after Mr. Batten had been before the Grand Jury, by myself, by my mind, with regard to the figures on the tally list which came to the attention of the Grand Jury ; I cannot tell to whom I first spoke about it ; there has been a great deal of talk about the marks on the tally list.

Examination in chief resumed—*Question*—Did you see Mr. Keegan, at any time while you were in the room, at the table figuring ?

*Answer*—I did ; I heard Batten make the remark after I had seen Keegan figuring ; it might have been ten minutes or an hour ; I cannot state positively on what he was figuring ; it looked to me like a piece of paper upon which he was figuring ; it was not on the clerk’s table that I saw him figuring ; the clerk’s table stands right in front of the president’s table ; the figuring which I saw him making was not on the clerk’s table, it was on the other side of the council chamber ; this was some time previous to the fracas between Mr. Batten and Mr. Keegan ; I cannot give any idea of the time ; the remark which I made after the gentlemen came back from Mount Holly and told me that Mr. Batten

and Michael Keegan had been indicted by the Grand Jury for marks upon the tally list, was that that matter could easily be explained, and that it (the indictment) was for that purpose to close their mouths, and that they themselves could explain it.

Cross-examination resumed—I was at Kinsey's hotel on the night of the election, after the votes were counted; I heard then that there was to be a recount the next morning; I cannot tell from whom I heard it; it was a general talk; it had been customary particularly when there had been a close contest; I made the remark that they had counted McDowell out, and why was it that the other fellows could count the other fellow out; I made it in a jocular way.

JONATHAN KNIGHT.

Sworn and subscribed before me, this 11th day of February, 1864.

JOHN RODGERS, *M. C. C.*

James W. Wall, a witness produced on the part of the respondent, being duly sworn, says: I was at the council chamber at the recount, on the fourth of November last; I went there about half-past eleven o'clock; when I arrived at the council chamber, I am of the impression that they had counted off the votes for the first time; when I entered the inside of the bar, I made the remark that the report outside was that Mr. Lathrop had four majority; at that time I recollect seeing Mr. Michael Keegan take a piece of paper from the table where the judges were sitting, on the other side of the council chamber, as detailed by the last witness, and commenced scribbling upon it with a pen or pencil, I do not recollect which; he went back to the clerk's table; I heard Mr. Batten remark, "Stop scribbling on that paper," or words to that effect; at that time I was standing within about five feet of the clerk's table; I did not hear anything said by Keegan in reply; I do not know on what paper it was.

Being cross-examined, says: Keegan got the paper from the group of judges, and carried it to the clerk's table, where the figuring or writing was done.

Examination in chief resumed—I saw Keegan take a piece of paper from the judges' desk, but whether he scribbled on that or some other piece of paper, I do not know.

JAMES W. WALL.

Sworn and subscribed before me, February 11th, 1864.

JOHN RODGERS, *M. C. C.*

Adjourned until 10½ o'clock, A. M., February 12th, 1864, at the same place.

FRIDAY, FEBRUARY 12, 1864.

Parties present as before.

Charles R. Fenimore, a witness produced on the part of the respondent, being duly sworn, says: I reside in Beverly township, in this

county ; I am the clerk of the township of Beverly ; I acted in that capacity as one of the election officers held in that township on the third day of November last ; the judges of that election were Charles H. Peart, Richard F. Wilmerton and Charles C. McElroy ; Mr. Wilmerton was the assessor, and Mr. McElroy was the collector ; at the close of the polls, I assisted the judges by keeping the tally list ; I did not count the votes ; I kept the poll book at the election ; in counting the votes, Mr. Charles H. Peart took the ballots from the box ; Mr. Wilmerton numbered them, and Mr. McElroy strung them ; we commenced by counting the solid ballots first ; the splits were thrown into a hat ; when we got through with the solids, Mr. Wilmerton asked me how many I had on the tally list ; I added up the number of votes which I had for Mr. Stokes, and also for Mr. Lathrop, added them together, and told him the number ; he made the remark that he was one ahead of me ; I asked him, "how is that?" and if he thought that he was correct; he said he thought he was, but might possibly be mistaken ; I told him that I thought that I was correct ; at that time Mr. Hutchinson (Charles) told me that I was wrong, and how and when it was that I made the mistake ; that it occurred while Mr. Wilmerton, who numbered the tickets, stopped to sharpen his pencil, and some three or four tickets lying on the table ; the judge continued to count while Mr. Wilmerton was sharpening his pencil ; I told Mr. Hutchinson that I thought that I was correct, but would not, at all events, alter my tally until I was satisfied that I was wrong ; we then commenced counting the splits ; after we were through with counting the splits, Mr. Wilmerton again made the inquiry how I stood ; I ran over the tally which I had for the two candidates for Assembly ; he was then two ahead of me on the Assembly, but really only one on the vote, as there was one ballot from which the name for Assembly was entirely cut out, which left him one ahead on the ticket, but two ahead on the Assembly ; Mr. Wilmerton asked me what was to be done about it, or something to that effect ; I told him that I supposed that the officers could rectify that mistake before they made out their returns ; I made the announcement of the result as I then had it ; Mr. Hutchinson then again called my attention to the fact that I had made a mistake of two for the members of Assembly ; he did so openly ; he spoke audibly, so that others could hear him ; I think I did not hear any other person except Mr. Hutchinson, at that time, speak of it ; the election was held at the City Hall, in the city of Beverly, and the count was made at the same place ; it may have been a little after eight o'clock when we got through with the count ; I do not suppose that it took more than an hour and a half, at all events ; during the count there may have been a hundred persons in the Hall ; there may have been more or less, I cannot say ; there was a good deal of confusion during the count.

*Question*—How was it with regard to yourself, as to the crowd, around you?

*Answer*—As a general thing all the officers were very much crowded and pressed ; as to myself, while leaning on a desk to write or keep



the tally, I could scarcely get any fresh air by the press behind, and the judge who counted the ballots and took them from the box, was dictated to by the persons standing around him as to what were solid ballots or double ballots ; I think that Mr. Wilmerton said to some of those persons that the officers were not not to be intimidated or dictated to, and that if they could not conduct themselves properly they would have to leave the stand, or something to that effect ; my position was such that persons could get behind me, and they did so ; there were, I think, five ballots rejected on account of being double ballots ; I think the rejected ballots were placed in a book on the desk until after we had got through with the count ; then they were marked "rejected" and strung on a different string, perhaps they were numbered, I do not remember ; keeping my poll book, I kept it correctly ; there was a memorandum of the whole number of votes polled, made upon the poll book immediately after the polls were closed ; this memorandum was signed by the judges and attested by myself ; after we had thus completed the count, I took home the ballot box, poll book and ballots ; the ballot box was locked ; I had the keys.

*Question*—Did you and the other election officers, that night, make any arrangement to meet together the next day, and if so state when, where, and for what purpose you were to meet ?

*Answer*—We made arrangements to meet at the Democratic reading room for the purpose of rectifying mistakes and making out our returns ; there was no hour designated when we were to meet, that I recollect ; this reading room is over Perkins' butcher shop in Beverly ; we met ; I suppose that Richard Wilmerton and I were standing on the corner, with the ballot box in open view for one half hour, waiting for the room to be swept out and a fire made ; we did not keep anything secret ; all of the officers met ; the ballots were there examined, and there was found among the splits a vote which had been credited to Mr. Lathrop, to which he was not entitled ; previous to going there, Mr. Wilmerton came to my house, as it had been agreed that I should take him up ; I unlocked the box in his presence ; we looked over the poll book to see if there was any mistake, also the tally list, and then examined the ballots, the numbering of the bollots, to see whether they were correct, and found that they were as nearly as we could ascertain ; he then commenced counting the solid ballots ; I assisted him, and we found that there was one more solid ballot than there was tallied, knowing the number of solid ballots and also the number of each kind, Union or Democratic, as we had the night previous estimated ; we then made a second count of each kind, and found that it was a Democratic solid which had not been recorded on the tally list ; this made the numbering of the tickets by Mr. Wilmerton and my tally list coincide ; I corrected that one vote ; the ballots, papers, &c., appertaining to the election were then locked up and taken to Beverly ; at the meeting of the officers of which I have spoken, the returns were then made, after rectifying the mistakes which had been found, according to the correction we made.

*Question*—Had any returns been made and signed previous to that time?

*Answer*—If you mean to the clerk of the county and the secretary of state, I say none had been made; after the count had been made on the night of the election, the officers signed the tally list, on the desk where they had been counting; no other paper was signed but that; the ballot box and papers connected with the election have been in my possession since that time, with three exceptions; the ballots at one time were in the hands of a committee appointed as I understood by the Republican party, at my house; and twice I have left the box and papers with the Master over night; with those exceptions they have been entirely in my possession; I had possession of the keys on the two occasions while the box was in the possession of the Master; at the examination of witnesses on the part of the contestant, I produced the tally list of Beverly township, which was marked as an Exhibit on the part of the contestant and delivered to the Master, in whose possession that has been ever since; the committee to whom I have referred were Mr. Farnham, Mr. Manderson, they also told me that Mr. Phillip F. Synder had been appointed, but was sick and could not attend; I was sitting in the hotel at the time, at Delanco, they were the same, Mr. Farnham and Mr. Snyder, who have been examined as witnesses on the part of Mr. Lathrop; either Mr. Lathrop or Mr. Farnham called me out; I forget which; Mr. Lathrop introduced me to the gentlemen as the clerk of the township; they then told me their business, that they were appointed by the Republican party to examine the ballots in that township; I asked them if they thought that they had any right to do that thing; they said that they certainly had, that the law gave them the right, that the same thing had been done in Burlington, that a committee there had waited upon the clerk, the clerk also demurred as I did, put them off and either examined the law or sought counsel, and that he said that he was perfectly satisfied that the law gave them the right to examine the ballots which they had done, still they would like me to be satisfied also that they had a right, and that Mr. Synder had the late laws, but that unfortunately he could not be present, being sick; during the conversation which then took place, I asked the question if the election was to be contested, Mr. Lathrop answered in the affirmative; I then asked if the ballots were to be brought as evidence in court, they said, certainly; I told them that they were not sworn officers and that I did not think that they had any right to touch them; Mr. Lathrop suggested that we should go to the office of the Justice of the Peace, Mr. Fletcher, as he had the late laws; we proceeded to his office; the law was then read; Mr. Lathrop then pointed out the law which had a bearing on the case, read it; it was handed to me and I read it; they said that it gave them a perfect right to examine the box, and very tenaciously stuck to it, the whole four; I was not satisfied with the right which they said they had, but told them that as far as I was concerned, personally, I had no objection; I wished to delay the matter, but they said that it would be more convenient for them to at-

tend to it on that day ; I assented ; we went over to my house, and the deed was done ; I went with them, opened the box, gave them the papers, and remained with them while they made the count ; I did not observe that any alteration was made by them in any of the papers while they were there ; during a part of the time I assisted, but made no memorandum ; When they had completed their examination the papers were returned to the box.

*Question*—Have you any knowledge or information of any of the ballots having been altered on their face since they were voted on the day of the election ?

*Answer*—No, sir.

*Question*—Have you any knowledge or information of any alteration having been made upon the poll book, tally list or returns, since the election, except in rectification of the mistakes as you have already stated ?

*Answer*—No, sir.

The ballot box of the township of Beverly was here produced by the witness, and by him opened in the presence of the parties, the poll book was by him taken out and maked Exhibit O, on the part of the respondent ; the tally list which had been previously marked Exhibit E on the part of the contestant being shown to the witness he says : That is the tally list of the township of Beverly ; I did not make and keep a copy of the return which was sent to the clerk of the county and secretary of State.

The witness here in the presence of the parties, produced the ballots voted at the last election at Beverly ; he says on one of those strings are the ballots which were numbered, and on the other those which were rejected, and at the request of Mr. Stokes, in my presence and in the presence of the parties, proceeded to count the votes cast at the last November election in the township of Beverly, as now on the ballots, by the witness reading aloud from each ballot the name of the person designated thereon for members of the General Assembly, and as he read, I kept the following by making a mark thereon under the name thus read by the witness :

For Charles C. Lathrop,	-	-	-	-	155
For Jarrett Stokes,	-	-	-	-	146
Rejected Ballots—Democratic,	-	-	-	-	3
“ “ Union,	-	-	-	-	2

He then said : I read the names correctly from those tickets ; I have counted the marks made by the Master ; there are one hundred and forty-six (146) for Mr. Stokes, and one hundred and fifty-five (155) for Mr. Lathrop ; there are five rejected ballots ; three of these were for Mr. Stokes, and two for Mr. Lathrop ; on one of the tickets, numbered 284, the name of the candidate for Assembly was erased, and no name was substituted therefor.

*Question*—By the poll book there were three hundred and eight votes cast ; by adding Mr. Stokes' vote, one hundred and forty-six, (146), Mr. Lathrop's vote, one hundred and fifty-five, (155), the blank Assembly vote, and the five rejected ballots, will make three hundred and seven



only ; how do you account for the missing vote, if you can account for it at all ?

*Answer*—We adjourned at one o'clock on the day of the election ; the poll book was locked up in the box ; we assembled again, after a recess of pretty nearly an hour ; the poll book was taken out and thrown upon the desk ; the box was relocked, and the polls were reopened ; Mr. Peart, the judge, called my attention to a ballot rolled up near the ballot box ; he said that he believed that that ballot belonged inside, and that it had been thrown out when he took out the poll book ; he said that he had a great notion to put it in again ; I told him that it was best not to do so ; he then said that we could easily tell when we came to count off whether it belonged in the box or not ; he unrolled the ballot and showed it to me ; it was a Democratic ballot.

(Mr. Lathrop objected to all evidence of the contents of a ballot which was not in the box.)

*Question*—Whose name was on it for Assembly ?

(Objected to by Mr. Lathrop, because they have no right to bring evidence in reference to ballots not in the box.)

*Answer*—I cannot say ; I did not read the names ; I believe that the judge put the ticket in his pocket ; I know Alfred Kepner when I see him ; I know nothing of his politics, except that he told me that he had voted for Abraham Lincoln, and would do so again, if he had the opportunity.

Being cross-examined, he says : The discrepancy which existed in my tally at the end of the solids, and Mr. Wilmerton's numbering, was really one ; Mr. Wilmerton did not keep a tally ; the difference, then, was between my tally and his numbering of the tickets ; Mr. Wilmerton had the larger number, he was one ahead of me ; I thought at the time that I was right, and made that remark to Mr. Wilmerton ; the noise and the crowd did not cause me to doubt the accuracy of my tally that night ; I do not recollect how many solid tickets there were ; the next difference we discovered in our counts, after we had counted off ; there was two difference in the count for Assembly ; he had two more than I had marked for the Assembly ; I do not know why I did not rectify the mistake at the time ; I suppose that it might have been done ; I suppose that the officers were pretty tired.

Exhibit E, *ex parte* contestant, being shown to the witness, he says : This was not intended as an official statement of the result of the election made at the time ; it was intended as the announcement made that night, but since corrected.

*Question*—What did you mean by the language used in the certificate appended to the tally list, (Exhibit E, *ex parte* contestant), signed by the judges and attested by yourself, as clerk ?

*Answer*—That was our tally list, and so considered, but I believe that it is not drawn in the usual form, and was simply used by the officers for the announcement ; there is nothing official about the paper ; it was simply used as a tally list, and served as the announcement read out ; I mean to say that it was not intended as a copy of the statement made to the county clerk or secretary of State ; the language of the certificate is the language used in the statute ; it was not our official statement of

the result of an election held in Beverly township, as declared on the night of the 3d day of November, 1863; that certificate was not read to the people then and there assembled; we did not announce the certificate to the people; we announced the vote, that is all; the tally list is not in the same condition in which it was on the night of the election, when it was signed by the judges and attested by me; some of the figures have been altered; there was one (1) added to the Democratic ticket for each candidate; there was also one (1) taken from Mr. Lathrop; these alterations were made by me; one alteration was made at my house, in the presence of Mr. Wilmerton, in the morning of the day following the election; the alteration which I now refer to was that on the Democratic side; I made the other in the presence of the officers, in the reading room referred to, that is, the taking of one vote from Mr. Lathrop; I mean that I made the alterations on the tally list; I made no other alterations; I do not know what ticket it was that we took from Mr. Lathrop; it was among the splits; the officer who discovered it informed of it, said that it did not belong to him, and it was taken from his vote; that officer was Mr. Peart; as the tally list stood on the night of the election, it was a true result of the count as I had it on the tally list that night.

Adjourned until 10½ o'clock on Tuesday, February 16th, 1864, at the same place.

TUESDAY, FEBRUARY 16, 1864.

Parties present as before.

Cross-examination of Charles R. Fenimore continued—The arrangement to meet the next morning, to make out the returns, was made on the morning of the election; the arrangement to meet the next morning to make out our returns, and also to rectify mistakes, was made that evening, after the count was through; the arrangement in the morning was a private one as among the officers; when we adjourned at one o'clock, Mr. Peart took the ballot box home with him; I am perfectly sure that the box was not then taken to the Democratic reading room; I got home on the night of the election about nine o'clock; I went immediately home from Beverly; I was not in Burlington that night, nor on the next day; Mr. Wilmerton came to my house the next morning after election, somewhere about eight o'clock, as near as I can specify; no one came with him; while he was there, I am positive that a servant of Mr. Lathrop came there for some things; there was no one else there; Mr. Wilmerton and I opened the ballot box and went over the tickets and papers generally; the mistake upon the tally list was corrected before we saw the other judges; what I speak of now is that one ballot; the box was opened at my house, at my own suggestion, I think; Mr. Wilmerton and I got

to Beverly between nine and ten o'clock; I think that when we arrived there we saw Mr. Peart at once; he was standing on the corner, near the reading room; we saw Mr. McElroy immediately afterwards; I do not recollect that any one was present except the officers when the box was opened at the reading room; Edwin C. Bacon came there to pay his tax; Henry V. Fenimore and Isaac Fenimore also came there; Robert Jolly swept the room out, but I believe that he left before the box was opened; I have named all who were in the room while we were there; Edwin C. Bacon is a radical Republican; the two Fenimores are Democrats; Mr. Bacon may have remained there five minutes; I think he was in there twice; the ballot box was opened about ten o'clock; we were engaged about an hour and a half in recounting the tickets and making out the statement; in making the recount, I think that the judge did not count anything but the Assembly vote; I mean the splits; I cannot say whether there were any splits for clerk and sheriff; I did not receive the votes; I did not go over the splits; Mr. Wilmerton and I only went over the solid tickets at my house, we did not go over the splits; in making this recount our object was not solely to ascertain the vote as between the Assemblymen; in making the official return the next day, we changed the vote from what it was the night before for others beside the Assembly, by giving an additional vote to each candidate on the Democratic ticket; it was also found, upon examination, that Mr. Lathrop was tallied one more vote than was found to be in the box for him.

The attention of the witness being directed to the tally list, (Exhibit E, contestant)—

*Question*—What is the number of tallies now standing on that tally list, opposite the name of Charles C. Lathrop?

*Answer*—As I understand it, it is one hundred and fifty-five (155.)

*Question*—Are there not one hundred and fifty-six tallies (156) now standing on that tally list, opposite the name of Charles C. Lathrop?

*Answer*—By counting the one which was intended to be erased there are; there has been an attempt to erase it; that is the one which partly stands there now; I think that I undertook to erase it that morning, after the error had been found and corrected; it was on the solid tickets that I was one short of Mr. Wilmerton.

The witness here opened the ballot box of Beverly township, and in my presence, and in the presence of the parties, took therefrom the string of ballots.

I think that the alterations made the next morning left the aggregate vote for Lathrop and Stokes the same as it was the night before.

The attention of the witness being directed to the ticket numbered 284, he says: I do not know whether that is the ticket which was



taken from Mr. Lathrop's poll the next morning; I cannot say whether it was counted for him the night before; I did not, to my knowledge, hear any thing said about that ticket, either at the count that night or at the recount the next morning; when I counted the tickets, on Friday last, that ticket was counted as a blank; I have no recollection of telling Messrs. Manderson, Farnham and Lathrop, at this interview with me, at my house, that that ticket was taken from Mr. Lathrop's poll; I do not recollect of having made any explanation to them whatever; I may have said to Mr. Roberts that I could not explain it, or would not explain it; I think that I said something of the kind to him; I can assign several reasons for that; one is that Mr. Roberts had a right to question, and I had a right to reply, and as I supposed that I would be called upon to give evidence in this matter, I did not consider him a proper person to take testimony; I did not assign either of these reasons to Mr. Roberts at that time; perhaps I said to Mr. Lathrop that I thought I had a right to tell Mr. Roberts what I pleased; Mr. Lathrop came to me immediately after the examination of Roberts, and said that Mr. Roberts did not state the conversation which those two gentlemen had with me at my house, as it exactly took place; that is what called forth the reply that I thought I had a right to to tell Mr. Roberts what I pleased.

The tally list (Exhibit E contestant) being again shown to the witness, and his attention being called to the figures, on the right and lower corner, in ink; he says: I cannot state when or where they were made; I think that they were made by me, if I am not mistaken; the number 156, by looking over the tally list, is probably meant for the number of tallies on the tally list for Lathrop; the number 146 represents the corrected vote for Mr. Stokes; those figures were made there after Mr. Wilmerton and myself went over the tickets at my house the next morning; they could not have been made the night before, for it was not known by me that night that Stokes had (146), one hundred and forty-six; I kept a tally the next morning; I did not preserve it; I did not see Mr. Jarrett Stokes on the day of the election, that night, or the next day; I did not see either Keegan or Richardson on the day after the election; Mr. Charles Hutchinson, John Letts, and I believe that John Linton also, kept a tally on the night of the election; Mr. Linton was at the table; the two judges sat between him and me; when Mr. Manderson, Farnham and Lathrop called upon me, Mr. Lathrop said that he wanted me to be satisfied that they had a right to examine the box; they made no alteration in the tickets, nor did they disturb them in any way except to look over them; they made a note of certain tickets which had been scratched; the three judges of the election in Beverly township and myself belong to the Democratic party.

Examination in chief resumed.—The returns or statement of the result of the election which we sent to the secretary of State and the county clerk, were written the next day after the election at Beverly; no others had been previously written for which they were substituted.

The tally list (Exhibit E contestant) being shown to the witness he says: The figures opposite the tallies opposite the name of each candidate were made in ink as they now are, the next day, after the mistake was corrected; they are over figures which had been previously made in pencil; the pencil figures were made by myself on the night of the election after the count was done; the tally list as it stood on the night of the election, after the count had been made, did not represent a true statement of the result of the election; as it now stands it does; the alterations on the tally list after the night of the election, consisted in adding one tally or mark to each candidate upon the Democratic ticket, and also deducting one tally from the vote as I had it given to Mr. Lathrop on the night of the election; these alterations were made because upon examination it was found that there was one Democratic vote or ballot which had not been tallied, that also there was one more tally or vote given to Mr. Lathrop than there were votes for him in the box; that tally list is in the usual form in which tally lists have been kept in the township of Beverly; but the certificate appended thereto is wholly unnecessary; I did not see either Peart or McElroy, the other judges of the election after the count was finished that night until I saw them the next morning at Beverly; the room where we recounted the votes was not a private room, it was a public one, and accessible to any one who chose to enter.

*Question*—What did you mean when you told Mr. Lathrop, that you thought you had a right to tell Mr. Roberts what you pleased?

*Answer*—I meant exactly what I said.

*Question*—Did you mean to say that you had a right to tell him a falsehood, or did you mean to say that you had a right to tell him as much or as little as you pleased?

*Answer*—I did not mean to say that I had a right to tell him a falsehood, but did have a right to make evasive answers if I was so disposed; I understand from Mrs. Peart, that Mr. Charles H. Peart, the judge of the election, is with the army of the Potomac. I know that he was subpœnaed and attended as a witness for Mr. Lathrop in this matter; he left because he was discharged; I was also subpœnaed and attended as a witness on the part of Mr. Lathrop, and was discharged; we were both discharged at the same time, after an attendance of three days; I think that it was after the termination of Mr. Lathrop's testimony, but before the commencement of Mr. Stokes' testimony, when Mr. Peart left for the army of the Potomac; I did write to Mr. Peart at the r

quest of Mr. Stokes, requesting his attendance here, but have not received any answer.

(Objected to by Mr. Lathrop.)

Cross-examination resumed.—Mr. Peart has not, to my knowledge, enlisted as a soldier in the Army of the Potomac; I understand that he is in the sutler's department; the room where the recount was had on the morning after the election is the Democratic reading-room; it is rented by the Democratic club; so far as I know, it is not frequented by Republicans; the figures in pencil on the tally list represented the true result of the election, as we had it on that night, or as I had it on the tally list; the figures in ink at the end of the tallies were made at Beverly; both of the corrections of which I have spoken were made at the same times, as far as concerns the making of the figures; at my house, before I went to Beverly that morning, we added one mark on the tally, we did not alter the figures; I was also subpoenaed by Mr. Lathrop to bring the ballot box of Beverly township; I produced the box while Mr. Lathrop's testimony was being taken, and opened it, at his request; it was not until after that that I was discharged; I took all three of the keys of the ballot box on the night of the election.

Ticket number 297 being shown to the witness, he says: That ticket was counted for Jarrett Stokes, I suppose; the name on the ticket is spelled "Garet Stockes."

The poll book of Beverly township (Exhibit O, respondent,) being shown to the witness, he says: The alterations made in the figures, from 182 to 247, inclusive, were made on the afternoon of the day of election; in counting the splits at the recount we did not count for any candidates except for the Assembly; I cannot say why the votes for the other candidates were not counted.

Examination in chief resumed.—When I said that we found a ticket with the name for Assembly "cut out," I meant erased.

CHAS. R. FENIMORE.

Sworn and subscribed before me, February 16, 1864.

JOHN RODGERS, *M. C. C.*

George W. Smith, being recalled, says: I reside in the township of Springfield, in this county; I resided there at the time of the last election; I came from Springfield to Burlington on the night of the last election; George Wetherill, I think, came with me; we came in a carriage; we left there after the votes had been counted, but had not been summed up; those who kept the count told me what they were; we came right here, to Kinsey's hotel; we got here, I suppose, before eleven o'clock; I went first into the bar-room; I afterwards, while here, saw Benjamin Lippincott come into the bar-room with the ballot box, and set it down on the table opposite the bar, but I did not know that it was the



ballot box at that time; after it had been sitting there some time, and we had been talking around, I noticed the locks on it, and said that it looked like a ballot box, and was told that it was; I saw Lippincott beckon or call to Mr. Kinsey, and he and Kinsey took the box and put it behind the oyster bar; I saw Lippincott go to the oyster bar, get the box, and go out of the house with it; I cannot say that anybody went with him; I think he went out at the front door; he came past me in that direction; the ballot box was behind the oyster bar for half an hour or three-quarters, after it was taken from the table and put there; I think it was about one o'clock when Lippincott went away with the box; I think that Lippincott was in the bar-room from the time when he put the box behind the oyster bar, and when he took it away; I was also in the parlor; I slept here that night; while I was in the parlor, persons were coming in and going out at pleasure.

Being cross-examined.—When I got here, I told them what the vote was in Springfield; I brought the news that Mr. Stokes had twenty-eight majority there; they asked me as quick as I got into the room; they said, I think, that they had the reported returns from all the townships in the district; there were different reports about Burlington; I heard that Burlington had given 175 majority for Lathrop, and I heard that Burlington had given 167, 8 or 9 for him, I think; when I first came in the bar-room, Mr. Kinsey said, “you are beat;” Wall said, “no, you are not beat, but you are so near beat that there is no fun in it,” meaning in this Assembly district; I believe that that is as near as I can tell, but there was great hope for Mr. Stokes, from the report from Burlington; I heard the next morning when I got up to the railroad that Mr. Lathrop was elected; I saw some calculations made by Mr. Wall, who came up to show me, on paper, when I first came in; I do not know that I saw any calculations made by any one else; he put Mr. Lathrop’s majority at 167, 8 or 9, I cannot tell which; I heard that night that they were going to recount in this township; I heard Mr. Lippincott say it to some others; some one asked him what the majority was when he came in; he said that he could not tell, some said that it was 167, 8 or 9, some said it was 175 in this township, he said he never announced it officially that night of the election; he was going to have a recount at the Lyceum at nine o'clock the next morning; that he had been a judge of election for several years, and that he always done so; that he always charged for three days, one day for taking the votes, one day for counting them and, one day for summing up; I heard him say that there was to be a recount, and several others; I saw Jarrett Stokes here that night; I think it very likely that Mr. Stokes heard that night that there was to be a recount. GEO. W. SMITH.

Affirmed and subscribed before me, this 16th day of February, 1864.

JOHN RODGERS, M. C. C.

Nathaniel W. Fenimore, a witness produced on the part of the respondent, alleging himself to be conscientiously scrupulous of taking an oath, and being duly affirmed, says: I do now and did at the time of the last election reside in the township of Springfield, in this county; I came to Burlington on the night of the last election; I left home about a quarter after ten o'clock; I got here, I suppose, about a quarter after eleven o'clock; upon arriving at Burlington I stopped at the telegraph office and went in there, and came from there here (Kinsey's hotel); George Wetherill came with me; I suppose that I got to Kinsey's hotel about a quarter or half-past eleven o'clock; I went first into the bar-room; I saw Mr. Lippincott come into the bar-room, after I had been there three-quarters of an hour or an hour; some one asked him as soon as he came in what the majority was; he said, "it is not our custom to make any official announcement on the night of the election, come up to the City Hall to-morrow morning at nine or ten o'clock (I do not recollect which, it was a specified time, however,) and I will tell you;" he said that they were going to have a recount to-morrow morning, and that he would make the announcement then; I think that he had the ballot box with him; he set it on a table opposite the bar; I saw it, after that, sitting behind the oyster bar at the far end of the bar-room; I did not see it taken from the table and put behind the oyster bar; my attention was called to it behind the oyster bar, from the fact that Mr. David Lukens called me on one side to have a conversation, and while there, I cast my eye under the oyster bar, and saw the ballot box sitting there; this was about an half hour after I had seen it on the table; I should think that this must have been from half-past twelve to one o'clock at night; I was in the front parlor that night and slept up stairs; those are all the rooms which I was in in Kinsey's hotel that night; I did not see Mr. Lippincott that night in any other room except the bar-room; I did not see the ballot box taken away.

Being cross-examined, says: I stopped at the telegraph office that night to see what the election returns were, supposing that I would see people there who knew; I did not learn there the returns from the different townships in this Assembly district; I knew the vote in my own township when I came here; did not state the result in Springfield to any one at the telegraph office; I saw Mr. Jarrett Stokes here that night; I did not go into Bel-din's house that night; I never go there.

NATHANIEL W. FENIMORE.

Affirmed and subscribed before me, February 16th, 1864.

JOHN RODGERS, *M. C. C.*

George Wetherill, a witness produced on the part of the respond-

ent, being duly sworn, says : I do now and did at the time of the last election reside in the township of Springfield, in this county ; on election night I came to Burlington with Nathaniel W. Fenimore, and arrived here about half past eleven o'clock ; the vote had not been counted in Springfield before we left ; we came to Kinsey's hotel upon arriving at Burlington ; we came into the bar-room at first ; I saw Benjamin F. Lippincott in the bar-room about a quarter to twelve o'clock ; he brought the ballot box with him and put it on a table or stand ; he talked with us ; I do not think the ballot box remained on the stand more than ten or fifteen minutes ; I saw it taken away ; he and Mr. Kinsey took it and put it behind the oyster bar at the back end of the room ; I saw Lippincott go and get it and take it out at the front door ; the box remained behind the oyster bar from twenty minutes to half an hour before it was taken away ; during this time I was part of the time in the bar-room, and part of the time in the front parlor ; I was in no other rooms in the house that night except a bed-room ; I do not remember seeing any one with Mr. Lippincott when he went to get the box from behind the oyster bar ; I think it was fully half past twelve o'clock, perhaps later, when Lippincott took the box from behind the oyster bar ; I did not see the ballot box from the time when it was put behind the oyster bar, until it was taken away ; I know Mr. William Larzaleer of this place ; he did not say to me that night when shaking my hand, "I will be God damned if Jarrett Stokes shan't be elected," or anything to that effect.

Being cross-examined says : My brother Chistopher was here that night ; Thomas was in but I did not see him ; I saw William Larzaleer here that night ; I do not recollect whether he came into the bar-room before or after Mr. Lippincott came in ; he came in after I came in however ; I was walking out in the street ; I went two or three hundred yards ; Russel Batten was with me ; it was between two and three o'clock when I went to bed ; I do not think that any thing was said about a recount except what Benjamin Lippincott told me when I asked him what the majority was ; he said he did not know, that there was so much noise that he did not make any official announcement of it that night ; I did not know the vote in my township that night, when I came here ; I did not know that Mr. Lippincott said that they were going to recount ; he said that it was customary to recount and make the official announcement of the majorities the next morning ; he said this to me ; there were others around ; I saw Jarrett Stokes here that night ; I do not know that he was standing around when Lippincott said this ; I do not remember hearing him say anything about a recount the next morning ; he was here about half an hour ; I did not see any thing of Wallace Lippincott here, or at any other place that night.



Examination in chief resumed.—I was in the bar-room when I heard Lippincott speak about the recount; it was right away after he came in with the ballot box; I was not at Dr. Hollemback's office that night; Lippincott did not tell me what the majority was that night.

Being cross-examined he says: Lippincott left the house that night by the front hall door.

GEORGE WETHERILL.

Sworn and subscribed before me, February 16th, 1864.

JOHN RODGERS, *M. C. C.*

Richard F. Wilmerton, a witness produced on the part of the respondent, alleging himself to be conscientiously scrupulous of taking an oath and being duly affirmed, says: I was, as assessor, one of the judges of the election at Beverly, at the last election held there; as such judge I examined and numbered the tickets as they were handed to me by the judge; all the numbers on the tickets were made by me; we first counted the solids, we laid the splits in a hat as they came from the box; this has been the custom there since the township existed; I have been one of the officers of the election since 1860; when we had finished the counting of the solids, there was a difference of one between the clerk, and me; I called his attention to it and said that there was a difference of one between us; I had the greater number; I do not think that there was any thing said as to who was accurate, and who was not; I do not recollect that any other discrepancy arose or was spoken of, between me and the clerk, at the end of the count; I think at the end of the count that something was said about my numbering not agreeing with the poll book; I think that there was one more number on the poll book than I had on the ballots; I have no knowledge as to how that occurred; upon finishing the count Mr. Fenimore announced the number as he had it on his tally list.

*Question*—Do you recollect hearing anything said at the time of the announcement, as to its accuracy, and if so what?

*Answer*—I do not recollect that any thing particular was said about it by any one; it was a hasty matter; Mr. Fenimore announced it as soon as he got through; the people seemed very anxious to know about it; I think that the majority of the people who had voted that day were in the house; the order was pretty much as usual during the count; the people seemed anxious to get the vote; there was no disturbance or anything of the kind; after the announcement was made by the clerk, and before we parted, I signed, with the other judges and the clerk, the tally list; (Exhibit E contestant) the returns or certificates of the result were made out and signed the next morning.

*Question*—After, or about the time the tally list had been signed,

was there any arrangement made for meeting the next day, and if so state what it was, and whether you met on the next day, in pursuance of such arrangement?

*Answer*—There was an arrangement to meet the next day in Beverly, in the fore part of the day; I do not remember that there was any precise hour fixed among us at the time; Mr. Fenimore and I made an arrangement that night, after we left the hall, for us two to meet at his house the next morning at eight o'clock; our arrangement was to get to Beverly about 9 o'clock; I went to Mr. Fenimore's the next morning; after I got there, he said that he would look and see if we could discover where the discrepancy was between him and me the night before; he unlocked the box, took the poll book, tally list &c., out, and we went over the poll book first to see if he had made any mistake in numbering the votes polled the day before; not finding any mistake there we looked over the tally list; finding then that he had counted up the votes properly we then went to the tickets; as we knew that there was a difference of one between us; we then counted the votes for the members of Assembly on the solid tickets; we found one there more than he had given Stokes credit for; that ended our proceedings until we got to Beverly and made out and signed our official lists; when we got to Beverly we went to a room called the headquarters of the Democratic party; it is over a butcher shop; the township has no place for the people to meet to attend to their public business; all the officers met together, McElroy and Peart were met by Fenimore and myself; Mr. Fenimore went to work making out his official report, preparing the official papers; McElroy and myself were engaged in correcting some discrepancies in the assessment which we discovered on the day of election; the judge of election occupied his time in looking over the split tickets, as they had not been looked over since the night before, while the clerk was preparing the papers; the judge announced that he had discovered an error in the splits; I do not recollect now exactly how it was; I think it was one where Mr. Lathrop's name had been erased, and which had been counted to him the night before; he had one more vote tallied to him than there was on the splits; I do not think that there were any other errors discovered; I think that Mr. Fenimore made the changes; afterwards when the mistakes were corrected we made out and signed the returns.

*Question*—Do the returns which you then made and signed contain a true statement and certificate of the result of that election?

*Answer*—They do, to the best of my knowledge.

*Question*—Do you know, or have you any information of any alteration or change whatever, in the ballots which were in the box, between the time of your count on the night of the election, and your recount at Beverly the next day?

*Answer*—There was no alteration or change in the tickets from

the time they were put in the box when they were voted, until they were counted the next day, except the figuring on the back made by me.

I do not know where Charles H. Peart is; I understand that he is down in the army of the Potomac.

Being cross-examined, says: We got done counting off on the night of the election about ten o'clock; I do not recollect the precise time; we did not make out our official statement that night, because the papers were not drawn up; the election was held in the City Hall, the place where the elections are generally held; the three keys of the ballot box were put in the possession of Fenimore when we left the City Hall; he took the ballot box also; we have generally been in the habit of delivering the keys up to the clerk after the election; we have not always made out the official statement that night; sometimes we have done it, sometimes not; I do not think that in the township of Beverly we have ever made out our official statement on the night of election; I think that we have not recounted the votes the next morning in the township of Beverly since I have been an election officer, until the last election; before going to Beverly that morning, I had not heard the result of the election in the district; I do not think that I had heard from any one the returns from any of the townships except Beverly; Mr. Fenimore and I knew that there was a difference between us, and we thought that we would open the ballot box so as to facilitate the business; we were engaged with the ballot box at his house between fifteen minutes and half an hour; Mr. Fenimore and I only examined the solid tickets; when at Beverly Mr. Peart discovered among the split tickets a vote which had been counted for Mr. Lathrop, which should not have been; I believe that it was taken from his vote; it was not added to Mr. Stokes'.

*Question*—Did you see this ticket which was so discovered by Mr. Peart?

*Answer*—I do not recollect; he may have shown it to me; if he did I do not recollect what the alteration was; I have no recollection of having seen the ticket; I presume that I was satisfied; I cannot say that I consented to the alteration without seeing the ticket; I cannot say positively whether I saw it or not; I examined the tickets on the night of the election with a view to ascertain whether they had been correctly announced by the judge, Mr. Peart; I do not suppose that either Mr. Peart or myself discovered this altered ticket at night which was discovered the next morning; we counted the votes that night in a deliberate way.

Examination in chief resumed.—I do not know how the mistake was made, by which Mr. Lathrop got one more vote than he was entitled to, or anything more about it, except that there was one more vote on the tally list for him than there was in the box, or



on the string; I cannot tell how the mistake occurred; I have no recollection at all of my attention being directed to this ticket, on the night of the election; Mr. Peart left the hall first on the night of the election; McElroy, Fenimore and I left together; we separated from McElroy at the door; I parted from Mr. Fenimore at the end of his lane that night; I did not see anything of Fenimore that night, nor until the next morning, when I went to his house; nor did I see Mr. Peart and Mr. McElroy, until I met them at Beverly the next morning.

R. F. WILMERTON.

Affirmed and subscribed before me, February 16th, 1864.

JOHN RODGERS, *M. C. C.*

Adjourned until 10½ o'clock, A. M., on Wednesday, February 17, 1864, at the same place.

WEDNESDAY, FEBRUARY 17, 1864.

Parties present as before.

Charles C. McElroy, a witness produced on the part of the respondent, being duly sworn, says: I am the collector of the township of Beverly, and as such acted as one of the judges of the last election in that township; Charles H. Peart was judge, Richard F. Wilmerton was one of the judges, being the assessor of the township, and Charles R. Fenimore was clerk; these were the other officers beside myself; I strung the ballots; in counting, the solids were separated from the splits; the solids were counted first; while counting the solids, the splits were thrown into a hat; after the solids were counted the splits were counted; I do not remember whether they were strung on the same string with the solids or not; when we got through with counting the solids, Mr. Wilmerton and the clerk did not agree; Mr. Wilmerton had one more on his count than the clerk had; Charles Hutchinson told Mr. Fenimore that he was wrong, and undertook to tell him where the mistake was, but there was so much confusion that I could not tell what he said; I do not remember that anything more was said about it; Mr. Fenimore remarked, as clerk, that he would not alter his list until he was satisfied that he was wrong; I do not remember that anything occurred at the end of the count of the splits in reference to any other supposed mistake.

*Question*—What did occur, what did Mr. Hutchinson say?

*Answer*—He said that they were wrong when the announcement was made by the clerk, of eleven majority for Mr. Lathrop for Assembly; he said that it was but nine; Mr. Fenimore said that if he was wrong it would be corrected when they made their recount the next day.

*Question*—Did you hear anybody else, at that time, say that the clerk's announcement was wrong?

*Answer*—No, sir, I did not; I heard other people say that Mr. Letts said that Mr. Hutchinson was right and that the clerk was wrong; this was right away after the election was closed.

(Mr. Lathrop objects to the last answer of the witness, because it is in direct violation of every known rule of evidence.)

Mr. Letts is a Republican; I know Mr. Linton; I saw him there that night; he kept a tally; he is a Republican; Mr. Hutchinson kept a tally; he was right behind the clerk; I was at the recount the next morning, at the headquarters, at Beverly; when we left the City Hall, after the election was over, we agreed to meet the next day to count over the ballots and make out our returns, as the counts of the clerk and Mr. Wilmerton did not agree; and that is the reason why we met then; the other judges and Mr. Fenimore met with me; Mr. Wilmerton and Mr. Fenimore came up to Beverly between nine and ten o'clock; we met and stood in the street half an hour, I suppose, before we went up into the room to count them; the door of the room was left open for any one to come in who was so disposed; it was not done privately; Henry V. Fenimore was in there part of the time; Christian Weyman came there to pay me his tax; Charles Peart and Mr. Fenimore commenced counting the ballots; Mr. Wilmerton and myself commenced setting down persons' names that he had omitted in assessing; Mr. Peart stated that they had discovered one ticket which was scratched, with Mr. Lathrop's name erased off; I did not see the ticket; there was a ticket short on the tally list of the solid votes; these corrections were made there by the board; the returns were made at the same time that we met there to recount, after we had made the corrections on the tally list.

*Question*—Did the returns which you then made contain a true statement and certificate of the result of the election?

*Answer*—I believe that they did.

*Question*—Have you any knowledge or information of any change having been made in the ballots, from the time when they were voted until they were recounted, except the numbering on the back?

*Answer*—No, sir.

I parted from the election officers at the City Hall, on the night of the election, a few moments after we had got through with the count; I did not see them again or have any conversation with them, until I met them again the next morning at headquarters.

Being cross-examined, says: The ballots, poll list and tally list were put into the box after we were through with the count on the night of the election; the clerk of the election took the keys; he also took the ballot box; the recount was made in the way I have stated; Mr. Peart and Mr. Fenimore recounted the tickets;

I am not able to say whether they recounted the solids as well as the splits; I cannot say whether in counting the splits, they counted for all the candidates or only the candidates for Assembly; I had no personal knowledge of these errors, only what these two gentlemen said; I consented to these alterations, from what these two gentlemen said, without any personal knowledge as to whether these errors existed or not, having confidence in the two gentlemen; I do not remember whether I knew at that time that the box had been opened at Mr. Fenimore's house; the place of meeting was at the Democratic headquarters, and not at the place where the election was held, we could not get there, there is a school kept in the room; when we met the next morning, we had not heard the returns from any of the townships in the district; Mr. Hutchinson was not acting in any official capacity on the night of the election; he was not an officer of the election; he is a Democrat, I believe.

Examination in chief resumed—*Question*—At the time of the recount, did you not take the statement of the other members of the board who had counted over the votes as true?

*Answer*—Knowing Mr. Fenimore and Mr. Peart as men of veracity, I took their word.

Cross-examination resumed—I cannot say positively when we got through with the recount and making out our returns; I suppose it was somewhere near twelve o'clock, perhaps between twelve and one o'clock.

CHARLES C. McELROY.

Sworn and subscribed before me, February 17th, 1864.

JOHN RODGERS, *M. C. C.*

Samuel K. Schuyler, a witness produced on the part of the respondent, being duly sworn, says: I do now and did reside on the third day of November last, the day of the election, in Burlington; I did not get up earlier than nine o'clock on the next day; I went to Higbee's hotel after I got my breakfast, about half-past nine; it may have been later; I had some time previous made a bet of fifty cents' worth of whiskey; I bet on Jarrett Stokes; I paid it the next morning after the election, at Higbee's, right away after I got there; I paid it because I lost it; I was betting on majorities of seventy-five in the district; I understood that Mr. Lathrop was elected; I had made several bets, and did not feel like going anywhere; I saw the ballot box out on the railroad; Mr. Batten, or some one else, had it, I do not know who had it; I asked what was going on, and they told me a recount; I went from there up to the City Hall; there they were recounting, and made a difference of some few votes, I do not know what, in Stokes' favor; in the recount there was found a mistake of four or five or six in his favor,



I do not know which, I believe five or six; I went from there up in York street, and then came down to Higbee's; they were talking about betting there; everybody appeared to be in a betting humor that morning; the character of the betting was two to one in Lathrop's favor; I made bets of two to one; I took odds against Stokes; there was a good deal of betting going on there at that time; this was the style of the betting; I have no recollection of having seen Mr. Elisha Beldin at a little after eight o'clock that morning; I saw him that morning, but not so early as that; I saw him about the time that they were taking the ballot box up to the City Hall; I do not recollect of having had any conversation with him then; I saw him after the recount, between eleven and twelve, near twelve o'clock, I guess; when I went past there, he asked me what the crowd was doing over on the opposite corner; I told him that they were betting; he asked what way; I told him two to one in Lathrop's favor; he then asked me if there was anything new that assured them that Stokes was going to be elected; I told him that I did not know whether there was anything new or not; that is all the conversation we had; I did not see or hear anybody that morning, at Higbee's or anywhere around there, offering to bet two to one on Stokes; I did not tell Mr. Beldin that they were betting two to one on Stokes, or anything to that effect; I told him that they were betting two to one on Lathrop; I did not tell him that I was in possession of any secrets; I did not tell him that I was betting on a certainty; this conversation occurred with Mr. Beldin after I returned to Higbee's from the City Hall; it was after it was all over, and I was going home, near twelve o'clock; I saw Edward Rigg at Higbee's; I saw him betting with James Seabury; the bet was forty dollars to twenty on Lathrop.

Being cross-examined, says: This bet with Seabury was after the recount; I bet that morning with Jacob Poole and John Lowden; I do not recollect whether I was at Kinsey's hotel on the night of the election; I was there in the afternoon; I first heard that Mr. Lathrop was elected on the night of the election, some time between the closing of the election that night and two or three o'clock the next morning.

SAMUEL K. SCHUYLER.

Sworn and subscribed before me, February 17th, 1864.

JOHN RODGERS, *M. C. C.*

Edward G. Keegan, a witness produced on the part of the respondent, being duly sworn, says: I am a brother of Michael W. Keegan; he and I now are, and were on the third day of November last, partners in business; our place of business is at number twenty-one, Broad street, Burlington; I recollect his coming to our place of business on the morning of the fourth of November

last, the day after the election; he got there about ten o'clock; I fix that time by the watch; I looked at my watch at the time he came into the shop; I made the remark to him that he and the Mount Holly cars got in at about one time; they were coming or had just passed, I do not remember which, they were in the neighborhood of the shop; it was either five minutes before or after ten o'clock; I know of him and Thomas M. Richardson going to Beverly that day; they went down in a one-seated one horse wagon; they were not together at my place of business; they got into the wagon at the corner of Broad and Main street, just as the clock was striking twelve o'clock; my brother got in at that time, Mr. Richardson was already in; I know about a telegraphic dispatch which Mr. Joseph L. Wright received from my brother at Beverly that day; I was sitting at work at my shop when Mr. Wright, who was then there, received the dispatch; this was about ten minutes of two o'clock.

Being cross-examined, says: I do not know at what time my brother got back from Beverly; I did not see him after he got back; he did not go out of town before twelve o'clock on that day; the telegraphic despatch was in very few words; it was, "Beverly, nine."

E. G. KEEGAN.

Sworn and subscribed before me, February 17th, 1864.

JOHN RODGERS, *M. C. C.*

Henry Hollemback, a witness produced on the part of the respondent, being duly sworn, says: I am now and was on the third of November last, the day of the election, mayor of the city of Burlington; my office is upon the Main street, No. 82, between Beldin's and Kinsey's hotels; I recollect that Benjamin F. Lippincott, the judge of the election, called at my office on the night of the election; he had the ballot box with him; it was about half-past eleven o'clock when he came in; he remained, I suppose, from twenty to thirty minutes; he came in through an inside door, and as he came in he sat down on the ballot box; he may have sat on the box ten minutes; when persons came in, he was obliged to change his position; he was on the box or the box was at his side all the time he was in there; McDowell and Batten came in, but whether they came in with Lippincott I cannot recollect; I am under the impression that they came together; it seems to me that when he went out, one or two went at the same time; I think that McDowell went with him, and it may be that one of the Wetherills went also; while Lippincott was there, there were in the office McDowell, Batten, and one of two of the Wetherills; I did not see or hear anything more of him or the ballot box that night.

Being cross-examined, he says: I believe that the chief conversation of those present was relating to the election, at any rate some part of the conversation was; I do not know that any of the returns from the township in the district were in except from Springfield; there may have been other returns in, but I do not remember them particularly; I do not remember distinctly whether the returns had been received from Cinnaminson, Willingboro' and Beverly; I should suppose that there had been reports from there, but I cannot detail them; the majority in this township was talked over there; I do not remember distinctly what it was stated to be; it was said by some at 168 or 169, and I think 170; it may have been stated at 175, but I do not remember distinctly; I know that there was a difference in the statements; I remember that distinctly; I cannot tell who differed in these statements; I had not so much to say in the conversation as some of the others did; I do not remember whether the statements were made by the election officers in this township; the conversation was general among half a dozen persons, perhaps, or less; I cannot definitely say who took part in the conversation relating to the result in this township; I think that there was something said as to who was elected to the Assembly in this district; I cannot remember by whom; I did not see any calculations made by figuring; there were calculations made in conversation; I believe that they did not succeed in electing any one; I believe that it was doubtful; I however, speak from general recollection, and not from any definite points at all; I have said that I do not recollect that any returns were in except from Springfield; but I presume that others must have been in; I have no recollection of that fact however; I do not remember that it was pretty generally conceded by us from the returns on that night, that Mr. Lathrop was elected; I do not remember that anything was said about having a recount of the vote in this township; I was in company with Mr. Lippincott during the whole time that he was in my house; he remained all the time that he was there, in my small office; all the others of whom I have spoken remained there also; I think that Mr. Lippincott left Mr. Batten in my office when he went out; he may have remained some minutes after Lippincott left; I cannot speak definitely on that point; I do not remember whether any body went out with Mr. Batten; I do not think that I saw Michael W. Keegan that night, but I am not positive; I do not remember whether he was at my house or not.

HENRY HOLLEMBACK.

Sworn and subscribed before me, February 17th, 1864.

JOHN RODGERS, *M. C. C.*

Paul Early, a witness produced on the part of the respondent,



being duly sworn, says: I reside in Burlington; I have resided here nearly twenty years; I was at the City Hall at the close of the count on the night of the last election; they were reading off the number of votes received by the respective candidates, when I went into the hall.

*Question*—Do you remember whether any adjournment was made, and if so by whom made, and what was it?

*Answer*—As Benjamin Lippincott was about locking up the box he said that we would meet to-morrow, at half-past nine, I think, to recount; I did not understand him at first, where; I asked the question of some one and was told, in the council chamber; I think that Mr. Batten, Mr. McDowell or some one of them repeated it; I was not present at the recount the next morning.

*Question*—Do you know anything about the custom of recounting in Burlington, and if so state it?

*Answer*—It always has been the custom to recount ever since I knew anything about elections here; for I have been at a good many recounts.

Being cross-examined, says: The recounts at which I have been have taken place at the Lyceum; I asked where the recount was to take place, because I did not understand; sometimes the recount is had in the council chamber, and sometimes where they hold the elections, down below; both rooms are in the same building, the City Hall.

*Question*—Can you state any instance in which to your knowledge, there has been a recount on the day after the election, in this township, after a State or county election?

*Answer*—I cannot state particularly as regards to that, it is a general thing to meet after all elections the next day.

*Question*—Do you remember a particular instance of a recount after a State or county election?

*Answer*—I could not name any particular one, but I have been at a good many recounts; I cannot recollect what elections they were particularly; I cannot recollect that I was ever at a recount after a State or county election in this township; I cannot recollect what elections; I recollect having been present at a recount after a township election in the spring; I suppose that it was between ten and eleven o'clock when I heard the announcement of the adjournment; there may have been from twenty-five to fifty persons in the house; they were scattered all around.

Examination in chief resumed.—*Question*—Can you state whether these recounts have been at the fall elections, as well as at the spring elections?

*Answer*—All elections here, as a general thing, they always met the next day to recount.

Cross-examination resumed.—They generally looked over the tickets; I have seen them there looking over the tickets in the

fall elections; I suppose that they always recounted; I have never been an officer of elections.

PAUL EARLEY.

Sworn and subscribed before me, February 17th, 1864.

JOHN RODGERS, *M. C. C.*

Thomas M. Richardson, a witness produced on the part of the respondent, being duly sworn, says: I live in Burlington; I know Michael W. Keegan; I saw him on the night of the last November election here; I saw him in the first place up at the City Hall; I saw him on Mr. Mitchell's corner, at the corner of Main and Pearl streets, between one and half-past one o'clock; Mr. Israel Wooden was with me; no one was with Keegan when we met with him; Mr. McDowell joined us afterwards; he came up then immediately after Wooden and I had joined Keegan; McDowell came from up Pearl street on the opposite side of the street, he crossed over and joined us on the corner; he came from the direction of Benjamin F. Lippincott's house; Mr. Wooden and I were at my stable yard gate, and we saw two persons going up on the opposite side of the street, one of them was Captain McDowell; I recognized him by his voice; I did not know who the other one was until they stopped at Mr. Lippincott's door; they knocked there; the door was opened and a light came to the door, then I saw that it was Mr. Lippincott; then we started on down to Mitchell's corner; I cannot say whether Mr. Lippincott had anything in his hands; I do not know; Lippincott went into the house after McDowell bade him good night; it was about three or four minutes after that when McDowell came up to us on the corner; he walked down on the opposite side of the street, while we came down on this side; Mr. McDowell asked us if we would take a walk down to Kinsey's and take a night cap with him; we all walked down to Kinsey's and took a drink with Mr. McDowell; after that Mr. Keegan, Mr. Wooden and I walked up together as far as Broad street; then we went up as far as my house, there we took a drink of cider; Mr. Keegan invited Wooden and me to take a walk up town to see if everything was quiet; we did so, and returned to my house again; we went in and took a drink of cider and he and Wooden left immediately after we had drank it; I did not see anything more of Keegan that night; I should judge that it was in the neighborhood of half-past two o'clock when he left the last time; I was with Keegan all the time, from the time that he joined Wooden and me at the corner of Pearl and Main streets, until he and Wooden left together at my house as I have stated; we remained at Kinsey's when we went in to take a drink with McDowell, about ten minutes; I do not know whether we left McDowell at Kinsey's or not when we went away; I went with Michael W. Keegan to Beverly the next day; we started

from here about a quarter past twelve o'clock; we went directly to Beverly; I should think that it was in the neighborhood of one o'clock when we got to Beverly; after Keegan first got into the carriage with me, we went up to my house at first; I have lived in Burlington ten years.

*Question*—Do you know anything about the custom of a recount in Burlington, and if so state what?

*Answer*—They recounted last spring and last spring a year; I have seen them recount two or three times beside that, but I cannot say what time it was or what year it was in, except the last fall election.

Being cross-examined, says: I saw Keegan at the City Hall about eight o'clock on the night of the election; I did not see him again that night until I met him at the corner of Pearl and Main streets; during that time, I was at Beldin's, at Higbee's, at Uriah Woolman's, at Joseph Marhis's, then I was in my stable next; these were the only places; I was not at Kinsey's before I went there with McDowell; I did not see Jarrett Stokes that night; I will not be positive whether I saw Wallace Lippincott that night or not, it is more than I am able to say; if I saw him at all, I saw him in at Mr. Beldin's; Lippincott's house is on the south side of Pearl street; the first time that I saw Lippincott and McDowell together they were on the south side of Pearl street going towards Lippincott's house; the Presbyterian church is on the same side of Pearl street as Lippincott's house; we went to Beverly to see if they had made a recount the next day after the election; they said that they had made a recount; I do not know who it was that said so; I saw Mr. Craythorne there, whom I knew; I think that I did not see any one else there whom I knew; there was such a strong betting going on here that we thought we could get a chance in too, if we could reduce the majority of Mr. Lathrop; that is the reason why we went to see if there had been a recount in Beverly; we went from Beverly to the telegraph office at the station then; we went to Bridgeborough; I do not know whether it is in Cinnaminson or Beverly, or Wilingboro,' we went over then to see some of the party that belong to the Democratic party; I belong to to that party; we went to see if any of the parties were there; I did not say any certain person; we did not go to see any certain party or persons at Bridgeboro'; we wanted to see the persons belonging to the Democratic party to know if they had heard that they had recounted in the other townships or not; we saw Jarrett Stokes for one; there were a number of persons there; I do not know Wallace Lippincott by name; there was a lame man there; I am not sure that he was a spare mau; I think Abraham Wilmerton was there; he was the only person that I knew, outside of Jarrett Stokes, by name; we went to a little place that they called an



office there ; Keegan went with me, no one else ; Jarrett Stokes was there ; he was the only person I knew by name ; I think that there was a lame man there ; I cannot say whose office it was ; I did not see a coal yard there near the office ; I do not know that this was Wallace Lippincott's office, nor did I hear any one say so ; there were three or four, four or five, perhaps, persons there besides Jarrett Stokes and the lame man ; I did not know any of them except Jarrett Stokes ; I do not think that I heard any of them called by name ; I was not told by any one who any of them were ; we went to the office to see Jarrett Stokes ; we wanted to see how he felt in regard to the election ; we asked them if they recounted, and they said that it came out just the same that morning that it had the night before ; that it did not make any difference as regards the election, but did not say whether they had recounted or not ; I do not think that either Mr. Stokes or the lame man said this ; I asked the party over to the tavern to take a drink, and they went ; we told them that there had been a recount in Burlington, and that we had been told in Beverly that they had had a recount there.

Examination in chief resumed—*Question*—Was not the real object of going to Beverly and Bridgeboro' to ascertain the true majorities for either the one or the other candidate for Assembly in the townships of Beverly, Cinnaminson and Willingboro' ?

*Answer*—Yes, sir.

THOMAS M. RICHARDSON.

Sworn and subscribed before me, February 17th, 1864.

JOHN RODGERS, *M. C. C.*

Isaac Newton, a witness produced on the part of the respondent, being duly sworn, says: I live in Beverly township ; I know Alfred Kepner ; I know Mr. Lathrop ; after the election it was noised around there with them, that Mr. Lathrop had given Alfred Kepner two dollars and a half to vote for him, they said that he had lost his vote, and I told them that I did not believe that he had given him two dollars and a half to vote for him ; so sometime afterwards I saw Mr. Lathrop, and I made it my business to ask Mr. Lathrop whether it was so or not ; and he told me that he gave this Al tepenny fifty cents to get clear of him ; I did not ask any more questions ; I mean Alfred Kepner when I say Al tepenny ; I drove a wagon to bring in voters that day ; I drove for Mr. Lathrop.

Being cross-examined says: I came up here to-day with Mr. Charles R. Fenimore, the clerk of Beverly township ; he called upon me to-day to bring me up here ; Mr. Lathrop told me this about the money shortly after the election, in Delanco ; he told me that he gave it to him at Progress ; he told me that he was addressing a meeting at Progress, and this man came up on the stand and asked him to give him something to treat the boys ; this Kepner is generally bumming around ; that is his style, asking people to give him money, and asking for whiskey ; this wagon I drove was for the purpose of bringing the Union voters to the polls.

Examination in chief resumed.—Mr. Lathrop paid me for driving the wagon ; I was subpoenaed to attend here as a witness ; Mr. Fenimore told me to-day that if I came up to-day, I would be examined to-day or to-morrow.

Cross-examined.—I drove the wagon from Delanco ; I did not take any one except those who had no conveyance of their own.

Hendrick Van Brunt's wagon ran to take up the Democratic voters, and Kepner went in it ; Isaac Buck and Hezekiah Johnson, who keeps the store, went at the same time.

ISAAC NEWTON.

Sworn and subscribed before me, February 17th, 1864.

JOHN RODGERS, *M. C. C.*

Adjourned until 10 1-2 A. M. on Thursday, February 18th, 1864, at the same place.

THURSDAY, FEBRUARY 18TH, 1864.

Parties present as before.

Henry G. Herzog, a witness produced on the part of the respondent, being duly sworn, says : The respondent here produced the poll book of the township of Beverly, (Exhibit O respondent) for the purpose of showing that John Caldwell, whose name is there registered Number 94, voted at the last election in that township.

I reside in Beverly ; I resided there at the time of the election last November ; I knew a man by the name of John Caldwell ; I saw him there on election day.

*Question*—What did he tell you about his residing and voting in Philadelphia ?

(Mr. Lathrop objects upon the ground of mere hearsay.)

He came up to my house one day and had the tax receipt and tax bill, which he said gave him a right to vote in Philadelphia ; he showed me that I think before Governor Curtin's election, on election day, Governor Curtin's election ; I was down in Philadelphia, and I asked him if he had voted ; he said not in the forenoon, but he would in the afternoon ; whether he has voted or not I could not tell, for I did not see it ; he was at that time at work at the Philadelphia navy yard ; I was at the navy yard that day, he was at the gate ; he made his home with his mother, I suppose ; he came up to Beverly every Saturday night ; I do not know where he boarded in Philadelphia ; he is a married man.

*Question*—What was that tax receipt of which you have spoken as having been seen by you ?

(Mr. Lathrop objects, as the receipt itself will show what it is.)

*Answer*—I cannot tell, but it must have been for personal property, as he does not own any other property in Philadelphia ; I think he said the amount was twenty-five cents ; I saw the receipt again two or three weeks ago.

*Question*—Do you mean by a tax upon his personal property a tax upon goods and furniture, or upon his person?

(Mr. Lathrop objects, as leading.)

*Answer*—I mean upon his person; I did not see him vote at Beverly; he said that he had voted in Beverly; that two men, Henry Fenimore and Charles Peart, had challenged his vote, and they told me that he had voted; he is a Republican.

Being cross-examined, says: I have lived five years in Beverly and two years outside of the town; Caldwell is a painter; I have known him about four years; I first became acquainted with him in Beverly; he has not always lived there since I have known him; he has been backwards and forwards to town, sometimes in Philadelphia and sometimes in Beverly; he moved to Philadelphia twice that I know; he claimed Beverly as his home, I guess, because he was there over Sunday; he has no family but a wife; she is insane, and now is in the Asylum; I cannot tell whether she was boarding with his mother at the time of the election; she was sometimes there, and sometimes with her relations; to my best knowledge, at the time of the election he had worked at the Navy Yard about five or six weeks; he was not doing anything before that; after he was discharged from the California regiment for disability, he worked around Beverly for awhile; it is more than a year ago since he was discharged from the regiment; I think it was hardly a year, for he was in the hospital for a long while; after his discharge from the regiment he was working around Beverly, until he went to the Navy Yard; he lived with his mother at this time; I know he voted for Lathrop, because he wanted me to vote for Lathrop, and I would not do it; I voted for Stokes.

HENRY G. HERZOG.

Sworn and subscribed before me, February 18th, 1864.

JOHN RODGERS, *M. C. C.*

Israel Wooden, a witness produced on the part of the respondent, being duly sworn, says: I reside in Burlington; I was with Thomas M. Richardson, on the night of the last November election, on the corner of Main and Pearl streets, in Burlington; I hardly know what time it was; I suppose it was after one o'clock, some time between one and two o'clock; we met with Michael W. Keegan after we had come down from the stable; then we saw Captain McDowell, who came down Pearl street on the opposite side of the way, and joined us at the corner; I saw McDowell when Richardson and I were at Richardson's stable gate; there was some gentleman with him, whom I did not know, at the time; I learned afterwards that it was Benjamin F. Lippincott; when we first saw them they were going up Pearl street, towards Lippincott's house; they stopped at Lippincott's house and knocked there; that was the way I knew who it was; we were coming out the gate when we saw McDowell and Lippincott; I knew McDowell by his voice; I did not notice whether Lippincott had anything in his hands or not; it was



dark, in fact, I could not see; after Captain McDowell joined us three, he invited us down to Kinsey's to take a drink, and we did so; I do not know how long we were at Kinsey's; it may have been ten or fifteen minutes; I went in no room but the bar room; Richardson, Michael Keegan and I came out of the bar-room and went up town; we were on a drink; everything was shut up, up town, and we went to Richardson's house and drank some of his cider; then Michael Keegan proposed that we should take a cruise with him in the upper part of the town, to see if everything was all right; we did so; then we came on down to Richardson's; we went in there and took a drink, and as there was nothing stirring, everything being played out, we concluded to go home; Keegan and I left Richardson's together; I went with Keegan to his house, knocked, and William Marter came to the door and let him in; when he went in I went home, about two squares from Keegan's; it wanted ten minutes of three o'clock by my clock when I got home; I did not see anything more of Michael Keegan that night; I was with him all the time, from the time I fell in with him at the corner of Main and Pearl streets, until I left him at his house.

ISRAEL <sup>his</sup> ~~X~~ WOODEN.  
mark.

Sworn and subscribed before me, February 18th, 1864.

JOHN RODGERS, *M. C. C.*

William S. Marter, a witness produced on the part of the respondent, being duly sworn, says: I am a brother-in-law of Michael W. Keegan; I resided at his house on the night of the election, in last November; it was twenty minutes of three o'clock that night when I let him in the house; I was lying on the settee that night close by the door; I was sick; he went to bed when he came in; I remained there on the settee; he got up somewhere in the neighborhood of nine o'clock, between eight and nine; he remained up stairs in bed from the time that he went up until he came down, about nine o'clock.

WILLIAM S. MARTER..

Sworn and subscribed before me, February 18th, 1864.

JOHN RODGERS, *M. C. C.*

Joseph L. Wright, recalled, says: I was at the City Hall, on the morning next after the last election, at the recount; I went up to the mayor's office, which is at the City Hall, and which is also the headquarters of the police; while standing in the door of the mayor's office, a man came up to me and asked me to draw up a petition to council for him, to recognise St. Mary's street, from Clarkson to Federal streets, as a public street; I went into the office to look for some paper; not finding any there, I told him to come up into the council chamber; there were several persons there, recounting the vote of the day before; as I understood, that was their business; I went to the place where they

were sitting, and picked up a half-sheet or sheet of foolscap paper, and went over to the desk of one of the members of the council to write the petition; Mr. Batten made some objection to my taking the paper; he wanted to know what business I had to take that paper; I told him that I wanted the paper, and that I did not know that it was any of his business why I took it; I then proceeded to draw up the petition; while in that act, I heard Mr. Batten say, "Mike, what the devil are you scribbling on my tally list for; I wish to God that you would let it alone," or words to that effect; I did not see him write on the tally list; I looked up and said to Mike, "he (that is Batten) is not worth minding, he is an old maid, anyhow," or words to that effect; I do not recollect distinctly the time, but I suppose it must have been between ten and eleven o'clock; I saw Samuel Schuyler as I went up town; I was standing on the railroad a very short time before I went up to the City Hall; I made some remark to him as to where he was the night before, and what time he retired, as I generally do when I see the officers, it being their duty to remain out longer than I, as I am on duty all day; he was then coming down Main street, from the direction of Federal street, where he resides; he told me that he was out very late, and did not get up until nine o'clock, or thereabouts; about the time that I saw Schuyler, I saw Lippincott with the ballot box, crossing the railroad and going in the direction of the City Hall.

*Question*—Do you know anything about the custom in Burlington of recounting the votes the next morning after the election, if you do please state it?

*Answer*—It has been the custom for a number of years, whether every year or not I cannot say, for the judges and the clerk to meet the next day and examine and correct any mistakes, if any are made previous to making out their returns.

Being cross-examined.—In 1844 the judges and clerk met for the purpose of looking over and correcting the mistakes, if there were any, and making out their returns; I recollect this because there were some ridiculous and amusing incidents occurred, which drew my attention to it at the time; this occurred at the Presidential election; that is the only instance of which I can specify the time; I have known of its being done at a number of other times; I do not remember who was in the council chamber when I went in there; I paid no attention to what was going on; as soon as I drew up the paper, I left the council chamber.

JOSEPH L. WRIGHT.

Sworn and subscribed before me, February 18th, 1864.

JOHN RODGERS, M. C. C.

Jarrett Stokes, a witness produced on the part of the respondent, alleging himself to be conscientiously scrupulous of taking an oath and being duly affirmed, says: I am the same Jarrett Stokes whose right to a seat in the General Assembly is being contested by Mr. Lathrop; I was in the city of Burlington on the the night of the last Nov-

ember election in this State ; I came in a carriage with Israel Stokes and Joseph Lundey ; I suppose we must arrived here about ten o'clock, from the fact that they called for me at my house after the vote had been counted off in Willingboro' township ; I brought with me the intelligence of the result in that township : the result as to the candidates for the General Assembly was one majority for Mr. Lathrop ; we stopped first at about opposite Beldin's, between Beldin's and Higbee's hotels ; we stopped there because Joseph Wills came out and desired that we should stop ; he said that he thought we were defeated, because he said that the Republicans had been spending an immense amount of money in Burlington township ; I think that he said that they were then 145 ahead on the solids ; I said to him that I would go down to Colonel Wall's and remain there until they were done counting off ; I got out in front of Col Wall's house and went in there ; I was talking with Mrs. Wall about ten minutes I suppose ; the Colonel was not at home ; I then went down to Kelly's hotel on the opposite side of the street from Kinsey's, and remained there the greater part of the evening ; I was there when they were done counting off in this township, and the returns came in : there appeared to be a difference of opinion ; there were several reports came in as to the result of the election in this township ; I think that one report was 168, another 172 or 3, and another 175 majority for Lathrop ; I did not myself understand or know which was the true majority ; I could not find out ; some one, Larzaleer I think, and I went up to town, he said that we would go to the telegraph office, as there we could find out what the true returns were ; Larzaleer went into Beldin's and came out again ; I did not go in ; then we came back down to Kelly's ; it was then in the neighborhood of twelve o'clock ; I inquired for Israel and Lundy, who had brought me in, some one said that they were over at Kinsey's, and that the Springfield boys were there too, and would like to see me ; I then went over to Kinsey's ; I found them ; I suppose that we remained at Kinsey's for half an hour, and we then all went out, and went home ; I do not remember having been in any room at Kinsey's except the bar-room ; I may have been in the front parlor, but do not remember it ; those are all the places at which I was in Burlington ; I did not see anything, or hear a word said about the Burlington ballot box while I was here.

Being cross-examined.—I really forgot what Mr. Larzaleer said about the result after his visit to the telegraph office ; I do not recollect that he told me that he had learned at the telegraph office that the majority in this township for Mr. Lathrop was 175 ; we stopped once coming down from Beldin's to talk with some Cinnaminson friends who were going home ; this was the only time we stopped either way ; these Cinnaminson friends were, I think, Wallace Lippincott, William Lippincott, Charles Hammell and several others whom I did not know ; I think I made some calculations that night to see how the result stood between Mr. Lathrop and I ; I do not now recollect how I made it exactly ; I can figure it up ; if Mr. Lathrop had 175 majority in this township, that would give him four majority in the district ; if Lathrop



had 172 majority, that would give him one in the district ; if he had 168 majority, I would have three majority in the district ; I think that is the way we figured it up then, if my memory serves me aright ; these calculations were made at the end of the bar at Kelly's hotel, sometime between eleven and twelve o'clock, shortly after all the returns had come in ; I do not recollect that any one came into Kelly's and said that I was wanted over at Kinsey's ; I think I was told that some persons were at Kinsey's who would like to see me ; I think it very likely that I saw all of the election officers of this township that evening ; I did not have any conversation with any of the officers, I think, about a recount ; I think I heard something said about a recount ; I cannot recollect by whom, some persons in Kinsey's bar-room were talking about it ; I think it very likely that some one said to me that they were going to have a recount ; I was not consulted, nor was my opinion asked about a recount ; they said that they always did it here ; I do not recollect that any thing was said to me about the case of Mr. McDowell, at that time ; I recollect having a conversation with Jonathan M. Roberts at Mount Holly, in the presence of James Watts ; I do not recollect that I then said to Mr. Roberts, that they asked me that night about having a recount ; I said to him that they said that they were going to have a recount ; I told Mr. Roberts that I told them that if Lathrop had 175 majority, I had nothing to lose by a recount ; I did not, that I remember, say to Mr. Roberts that McDowell's case was referred to, and that if they recounted in his case, they might with equal propriety recount in mine ; I do not recollect that I have told Mr. Roberts in the city of Burlington since this investigation has been going on, that Benjamin F. Lippincott consulted with me about a recount ; it may have been Benjamin F. Lippincott who talked with me about it ; I do not recollect ; I was not at Beverly or Delanco on the night of the election ; I was at Beverly on the day after the election, sometime between twelve and one o'clock ; I saw Charles Peart, the judge of the election in that township, there ; we did not get out of our wagon, we turned around and drove after them ; I did not see either Charles R. Fenimore or Richard F. Wilmerton, on the day after the election ; I went then to see what the result was in Beverly ; Joseph Wills was with me ; I understood here that the majority there was eleven, I also heard here that there was a mistake of a vote there, and I also heard here that it was but nine ; and I also heard that there was one vote less in the ballot box than there was on the poll book ; that one vote was pulled out of the box at noon, and not put back, and that that was a Democratic vote ; I did not see anything of Michael Kegan and Thomas Richardson in Beverly ; I would like to tell another reason why I went to Beverly ; Joseph Wills called at my house, and told me that his brother had been to Beverly that morning, and had called at his house on his return, and the result at Beverly was as Mr. Lathrop announced it himself the night before, nine majority ; I saw Kegan and Richardson that day at the hotel at Bridgeborough ; not any where else ; it is possible that I saw them at Wallace Lippincott's office ;

I was in there ; I think that I am very sure that they were not in the office ; I do not think that Wallace Lippincott was in the office ; Wallace Lippincott is a little lame ; I do not know that I spent any money in electioneering purposes last fall ; I gave some persons some money for the purpose of hiring some wagons to bring the voters in ; I do not know that I expended any money for any other purposes except for hiring wagons, and for some lager beer.

Examination in chief resumed : When I left Burlington for home on the night of the election, I had no other information as to the result in this district for the candidates for Assembly, otherwise than that based upon the contingent majorities in this township of 168, 172, 173 and 175 ; I had the conversation with Mr. Roberts at Mount Holly, on the evening of the second day of the setting of the Grand Jury ; when I arrived at Beverly on the day after the election ; I understood that the officers of the election had just made up their returns.

JARRETT STOKES.

Affirmed and subscribed before me, February 18th, 1864.

JOHN RODGERS, *M. C. C.*

Mary Wiley, a witness produced on the part of the respondent, and being duly sworn, says : I reside in Burlington ; I have a son named Thomas Wiley ; his home is with me, but he is not there at present ; he is married ; he has a wife and one child ; he is now at New Hope with her mother ; she went up last summer, in the first of July, on account of her mother being very sick ; my son did not go until in the winter after Christmas ; he is a shoemaker ; he does not keep house at New Hope, he has a room at my house ; she is only taking care of her mother ; he works for himself ; he works for the city of Philadelphia ; he and his wife live together, in the same house ; they board with her father ; he pays his board there, she does not, for taking care of her mother ; their furniture is at my house ; I know Mr. William Larzaleer, the tax collector ; I recollect his coming to collect Benjamin's tax, he did not leave Thomas' bill then ; I do not know why he did not leave it then ; he did not say anything about it ; I recollect telling Mr. Larzaleer, that my son Benjamin did not live in Burlington ; he left Benjamin's bill then ; no gentleman has been talking to me lately about a difficulty springing up in reference to Thomas being an illegal voter.

MARY <sup>her</sup> ~~X~~ WILEY.  
mark

Sworn and subscribed before me, February 18th, 1864.

JOHN RODGERS, *M. C. C.*

Thomas M. Richardson, being recalled, says : I know John Fenimore of this town ; at the time of the last election he resided with Deborah Asay his daughter ; she lives in Broad street in this city, next door to me ; he came there on the 27th day of March, 1863 ; he said that he

had made his home with his son Samuel, in Ohio, previously to that, for nearly four years, during the four years preceding the 27th of last March ; I had not seen anything of him here ; Mrs. Asay and I have lived next door to one another three years next March ; previously to her coming here she said that she had been living at Hainesport in this county.

(Mr. Lathrop objects to all hearsay testimony.

Being cross-examined, says : I saw Fenimore about two weeks ago up at his daughter's.

Examination in chief resumed.—Fenimore voted here at the last election ; he is a Republican.

Being cross-examined.—I saw him vote ; I was at the polls then ; his vote was challenged ; he swore his vote in.

THOMAS M. RICHARDSON.

Sworn and subscribed before me, February 18th, 1864.

JOHN RODGERS, *M. C. C.*

Samuel R. Stevenson, a witness produced on the part of the respondent, being duly sworn, says : I reside in Burlington ; I was at the City Hall on the night of the last November election, when the officers had completed the count ; I heard the announcement made after they had got done counting ; I heard it announced that they would meet the next morning at nine or half-past nine o'clock, for the purpose of either a recount or to count over ; I do not recollect which, in the council chamber ; Lippincott the judge made that announcement ; I am not certain that it was not repeated by any one, it may have been.

Being cross-examined.—I vote the Democratic ticket generally.

SAMUEL R. STEVENSON.

Sworn and subscribed before me, February 18th, 1864.

JOHN RODGERS, *M. C. C.*

Henry V. Fenimore, a witness produced on the part of the respondent, being duly sworn, says : I live in Beverly ; I know Alfred Kepner slightly.

*Question*—Did he ever tell you about Mr. Lathrop giving him money to vote for him, and if so what ?

(Mr. Lathrop objects.)

*Answer*—I met with him at Delanco station ; I was down there ; I recognized the man as one who had voted there ; I had never seen him prior to that ; I said to him, "you have got over election have you ;" he said "yes, it was a pretty tight run ;" I then said, "they say that you were not entitled to a vote ;" I forget how the conversation run, but any how he told me that Mr. Lathrop had given him money to come and vote, and I took it for granted that he had voted a Republican ticket, that was what I expected.

HENRY V. FENIMORE.

Sworn and subscribed before me, February 18, 1864.

JOHN RODGERS, *M. C. C.*



Hamilton McDowell, being recalled, says: I do not know George Poole; I saw him once when he voted here at the last election; I took his vote; I was told afterwards by Lippincott that he was an illegal voter, and that if he had been there he would not have taken his vote. (Objected to by Mr. Lathrop). Lippincott told me that he lived in Philadelphia; I went to Philadelphia and took the Directory for 1863, and found his residence in the Directory to be at 1211 Parrish street; I went to his residence and saw his wife, she told me that he was not then at home, that he had left there about six weeks ago to go back to Burlington, where he was last fall; I asked her if he was residing there six weeks ago, (this was about three or four weeks since), she said that he was and had returned to Burlington; I do not know what his politics are; his vote was objected to by the Democrats.

Being cross-examined, says: It was about four weeks ago when I made this inquiry; his vote was challenged, and I am under the impression that he swore it in.

H. McDOWELL.

Sworn and subscribed before me, February 18th, 1864.

JOHN RODGERS, *M. C. C.*

Adjourned until 10 1-2 A. M., on Friday Feb. 19th, 1864, at the same place.

Parties present as before.

David P. Lukens, a witness produced on the part of the respondent, being duly sworn, says: I reside in the city of Burlington; I have charge of the Wall mills; I was at Kinsey's hotel on the day of the last November election; I got into the hotel a few minutes after twelve o'clock that night; I was in the bar-room all the time; I was not in any other room in the house; I know Benjamin F. Lippincott, the judge of the election; I saw him in the bar-room that night, he was sitting or leaning on the table between the stove and the oyster box in the rear of the bar-room; I spoke to him while there; I saw him carry the ballot box away; I did not see where he got it from; the first that I saw of Mr. Lippincott with the ballot box was when he was taking it from the direction of the oyster bar, across to the front entry door out of which he went; that was the first time that I knew that there was a ballot box in the house; I know that it was after one o'clock when he went out with the ballot box.

DAVID P. LUKENS.

Sworn and subscribed before me, February 19th, 1864.

JOHN RODGERS, *M. C. C.*

Susanna Asay, a witness produced upon the part of the respondent, being duly sworn, says: I reside in Burlington with my mother; she is a widow; I know Mr. John Fenimore, he is my grandfather; he is

living with my mother now ; he came there on the 27th day of last March ; for several years preceding that, for the last five years I think, he had been in the west ; part of the time in Iowa, and part of the time in Ohio ; he resided in Iowa first ; I know that he was in Ohio for the last year before he came to mother ; he made his home in the neighborhood of Fremont, with his son Samuel Fenimore ; I do not think he has ever lived in Burlington until last March ; he has been in Burlington several times ; but I do not think that he has made Burlington his home until this year ; when he came to live with my mother last March, he brought his clothes, &c., with him ; he had not had his clothes there before, not since he left for the West.

Being cross-examined, says : My grandfather is I think in his 79th year ; his wife is dead ; she has been dead thirteen years ; before his wife's death they lived around Columbus and in that neighborhood ; he also lived at Juliustown ; he lived at Columbus with his daughter for some time ; she went out west and he went with her ; she now lives in Iowa ; he had always lived in this county as long as I can remember, except a little while when he was down in Pennsylvania at work ; I could not say that he went out west to stay.

Examination in chief resumed.—Lydia Herto was the name of his daughter with whom my grandfather lived at Columbus.

*Question*—Did he not make his home with Mrs. Herto, from the time of his wife's death, until she went out west ?

*Answer*—For the greater part of the time he did, that seemed to be his home ; he was sometime with my father ; but he was not away from there for a year at a time ; when she went to the west he took his goods and went with her.

*Question*—What was the understanding in the family when he went west ? whether he went then to stay for his life-time or no ?

(Mr. Lathrop objects.)

*Answer*—I do not think that I can answer that, because I do not know what was the understanding ; I expected that he went to stay ; he was not here on any occasion from the time he went west with his daughter, five years go, until he returned last March.

Being cross-examined, says : I do not know that he took any goods except his clothes with him, when he went out west.

Examination in chief resumed.—I do not know of his having left anything behind of the property kind.

SUSANNA ASAY.

Sworn and subscribed before me, February 19th, 1864.

JOHN RODGERS, M. C. C.

Benjamin F. Lippincott being recalled, says : I know George S. Poole, he is my wife's uncle ; I mean George S. Poole, not George L. Poole ; he is a married man ; he has a wife and four children ; his place of residence is at No. 1211 Parrish street, Philadelphia ; he has resided in Philadelphia for six or seven years ; but not all the time at that place ; I know that he voted here at the last election ; he is a Re-

publican ; I did not receive the vote ; it was received by one of the other judges in my absence ; I do not know of his having ever voted here before ; I know that he voted in Philadelphia for Mr. Lincoln.

Being cross-examined, says : That was in 1860 ; he is now here in Burlington ; he is a shoemaker ; he is working at his trade here ; I do not know the exact time that he has been working here, it has been some time though ; prior to the last election he had been here something over a year, but he had been backwards and forwards with his family, there and here together ; I do not know of any difficulty between him and his wife ; I do not know that he separated from his wife ; I know that he goes there and visits them.

Examination in chief resumed—I know that he goes there and stays a week and more at a time ; he is down there, except when he is here at work ; I was between the stove and the oyster bar in Kinsey's bar-room all of the time between the time of putting the ballot box behind the oyster bar and my taking it away from there ; no other George Poole voted here at the last election that I know of, except the one who is referred to in the first part of my examination to-day.

The attention of the witness being directed to the name "George Poole," numbered 486, on the poll book of Burlington township, (Exhibit —, on the part of the respondent), he says : That is the person to whom I refer ; the name should be George S. Poole.

The poll book of Burlington township, (Exhibit L, respondent), was here offered to show that John Fenimore, numbered 487, voted at the last election in that township, and also John Boyle, numbered 795.

The witness says : I never saw John Fenimore until the last election.

Being cross-examined, says : I find the name of Caspar Webber on that poll book numbered 482 ; he voted here at the last election.

(Mr. Stokes objects to the question, because it is not embraced in the notice.)

BENJ. F. LIPPINCOTT.

Sworn and subscribed before me, February 19, 1864.

JOHN RODGERS, *M. C. C.*

Mr. Stokes here offered a certified copy of the statement of the result of the election held in the township of Beverly, on the third day of November, eighteen hundred and sixty-three, and the certificate thereof, which was by me marked Exhibit R, on the part of the respondent.

It is admitted by the parties that the ballots, poll book and tally-lists of the election in the township of Burlington, held in November last, have been in no wise altered or interfered with while the ballot box containing said papers was in the possession of Mahlon Hutchinson, Esq., the prosecutor of the pleas for the county of Burlington.

I, John Rodgers, do hereby certify that on the sixth day of January, 1864, Mahlon Hutchinson, Esq., prosecutor of the pleas for the county of Burlington, delivered to me the ballot box of the township of Burlington, the same being, at that time, locked with three locks ; and that



the keys of the said three locks were also delivered to me with the said ballot box.

And I do further certify that the said ballot box, containing the poll book, tally lists, ballots and statement of the result of the election held in the said township of Burlington, on the third day of November, eighteen hundred and sixty-three, with the keys thereof, and the said papers contained therein, has been in my possession since that time, and that the same has not been opened in any manner by any person except myself, and that it has been opened by me only in the presence of both the parties in this matter of contested election, and at their request.

And I do further certify that no change or alteration has been made in any way, in or upon the said poll book, tally list, ballots or statement, during the time that such papers have been in my possession, except such as are in my own handwriting, for the purpose of marking such of the said papers as exhibits on the part of the contestant or respondent.

And I do further certify that Exhibits C, D and E, on the part of the contestant, (C and D being the tally lists of the township of Burlington, and E being the tally list of the township of Beverly), Exhibits L, M and O, on the part of the respondent, (L being the poll book of the township of Burlington, and M the duplicate of the statement of the result of the election in that township on the third day of November last, and O being the poll book of the township of Beverly), are yet in my possession; the said Exhibits C, D and E, on the part of the contestant, and Exhibits L and M, on the part of the respondent, to be delivered to Mahlon Hutchinson, Esq., prosecutor of the pleas for the county of Burlington, upon the final close of the taking of depositions for the contestant and respondent.

By consent of the contestant, the following papers were marked as exhibits on the part of the respondent, viz:

Exhibit P, plan of the first story of Kinsey's hotel, Burlington, New Jersey.

Exhibit Q, diagram of main street, Burlington, with certain localities designated thereon.

Exhibit R, certified copy of the statement of the result of the election held in the township of Beverly on the third day of November, eighteen hundred and sixty-three, under the seal of the clerk of the county of Burlington.

The respondent then announced that his evidence was closed.

JOHN RODGERS, *M. C. C.*

## EXHIBIT A—RESPONDENT.

Mr. Jarrett Stokes objects to the taking of depositions on the application of Mr. Charles C. Lathrop, as a contestant of the seat of Mr. Stokes as a member of the General Assembly of New Jersey, because the said Charles C. Lathrop, at the time of the election held in the Second Assembly District in the county of Burlington, on the third day of November last, at which the said Charles C. Lathrop claims to have been elected a member of said General Assembly, had not been a citizen and inhabitant of the State of New Jersey for two years, and of the said county of Burlington for one year next before said election; and was then, therefore, and now is constitutionally ineligible to the office of a member of said General Assembly, and, consequently, incompetent to contest the right of Mr. Stokes, the return member, to his seat in said General Assembly.

A. BROWNING,  
*Counsel of Mr. Stokes.*

January 6th, 1864.

## EXHIBIT B—RESPONDENT.

Union ticket,	-	-	-	-	520
Democratic ticket,	-	-	-	-	362
32 Lippincott,	-	-	-	-	20
2					
29 Gibbs,	-	-	-	-	18
40 Lathrop,	-	-	-	-	25
30 Reeve.					
25 Kingdon,	-	-	-	-	13
30 Cowperthwait,	-	-	-	-	19
Hargrove,	-	-	-	-	23
Hancock,	-	-	-	-	24
Stokes,	-	-	-	-	14
Kelly,	-	-	-	-	25
Cramer,	-	-	-	-	20
Reeve,	-	-	-	-	24
Ticket No. 264, Reeve scratched (Democratic).					
No. 35, (Union), Stokes instead of Lathrop, one vote.					
" 185,	"	"	"	"	"
" 385,	"	"	"	"	"
Frake,	-	-	-	-	10
Levi French,	-	-	-	-	1
175		155		547	
4		28		362	
11					
		183		175	
190					

## EXHIBIT C—RESPONDENT.

Sheriff,	-	-	-	-	-	142
Union,	-	-	-	-	-	159
Assembly,	-	-	-	-	-	145
Union,	-	-	-	-	-	156
Clerk,	-	-	-	-	-	142
Union,	-	-	-	-	-	157

## EXHIBIT J—RESPONDENT.

CAMDEN, January 18th, 1864.

To CHARLES C. LATHROP, Esq. :

SIR :—You will please take notice, that the following list contains the names of the witnesses intended to be examined before John Rodgers, Esquire, one of the Masters in Chancery of New Jersey, at the house of William S. Kinsey, inn keeper, at the city of Burlington, in the county of Burlington, in this State, at ten o'clock in the forenoon of Friday, the twenty-second day of this present month of January, on the part of Jarrett Stokes, Esquire, declared to have been elected a member of the General Assembly of New Jersey, at the late election for such member and other officers, held on the third day of November last, in the Second Assembly District of said county, whose right to a seat in the said General Assembly you are contesting, that being the time and place appointed by said Master, and also agreed upon between yourself and said Jarrett for the examination of such witnesses, in the matter of contest touching said seat between you, as contestant, and said Jarrett, as the respondent, or returned member. And you will please further take notice, that besides disproving the ground or grounds on which you have given said Jarrett Stokes notice that you will contest his right to said seat, the said witnesses, or some of them, will also be offered to prove that you are not constitutionally eligible to the office or seat of a member of said General Assembly, because neither at the time of said election, nor at any time since, have you been a citizen and inhabitant of the State of New Jersey for two years, and of said county of Burlington for one year. And also, to prove that Nathan Lippincott, George Poole, Thomas Wiley, Isaac Tucker, John Fenimore, William Measey, William Cooper, James Murphy, John Boyle, John Colwell and Ira Starkey voted for you at said election, and were not legally qualified to vote thereat. And also, to prove that a majority of the legal votes cast at said election for a member of



said General Assembly, was cast for said Jarrett Stokes; and that he was therefore duly elected and entitled to a certificate of his election.

Your Obed't Servant,

A. BROWNING,  
*Att'y for and of Counsel with Jarrett Stokes.*

LIST OF WITNESSES MENTIONED IN ABOVE NOTICE.

Charles Stokes,	Hamilton McDowell,
Caleb F. Hendrickson,	James Russell Batten,
Richard F. Wilmerton,	Michael W. Keegan,
Paul Jones,	George J. Miller,
Azael Jones,	Thomas Wetherill,
Benjamin F. Lippincott,	Henry Hollemback,
David P. Lukens,	Francis Roth,
William S. Kinsey,	Daniel Deacon,
George Wetherill,	Wallace Lippincott,
Christopher Wetherill,	Alexander A. Larzaleer,
Edward G. Keegan,	Michael White,
John Larzaleer,	William Pew,
Levi Kemple,	William H. Lloyd,
Isaac T. Price,	Samuel K. Schuyler,
J. Morris Leeds,	Paul Earley,
William H. Stiles,	Samuel R. Stevenson,
William Marter,	George W. Vansciver,
Thomas Doolin,	William Larzaleer,
Bloomfield Sisom,	Charles H. Peart,
Susan Asay,	Charles C. McElroy,
William Measey,	Charles R. Fenimore,
William Cooper,	Henry Herzog,
Thomas Murphy,	Ira Starkey,
John Boyle,	Albert Jocus,
Benjamin S. Myers,	John J. McElroy,
Elijah S. Brown,	Henry Fenimore,
George W. Smith,	Charles Hutchinson,
Nathaniel W. Fenimore,	Joseph Cutter,
Israel Stokes,	Michael Cafferty,
Joseph Lundy,	John Heisler,
Silas A. Coleman,	Charles Austin,
Thomas M. Richardson,	Mahlon Hutchinson,
Israel Wooden,	John Rogers,
Charles Williams,	Jarrett Stokes,
Jonathan Knight,	Charles Gibbs,
Joseph L. Wright,	Mrs. John Wiley,
James W. Wall,	David R. Neall,
Hezekiah Johnson,	Isaac Newton.

## EXHIBIT R—RESPONDENT.

A statement of the result of an election held in the township of Beverly, in the county of Burlington, on the third day of November, in the year of our Lord one thousand eight hundred and sixty-three, for a Sheriff, a County Clerk, a member of Assembly, and three Coroners for the county.

The whole number of the names on the poll list is three hundred and eight.

The whole number of ballots rejected is five, and one ballot missing.

*Democratic Ticket.*

For Sheriff, Joseph A. Hargrove received one hundred and forty-three votes.

For Clerk, Ridgway Hancock received one hundred and forty-three votes.

For Assembly, Jarrett Stokes received one hundred and forty-six votes.

For Coroners, Abraham B. Kelly received one hundred and thirty-seven votes; Joseph B. Cramer received one hundred and thirty-nine votes; Henry F. Reeves received one hundred and thirty-eight votes.

*Union Ticket.*

For Sheriff, William C. Lippincott received one hundred and fifty-nine votes.

For Clerk, Amos Gibbs received one hundred and fifty-seven votes.

For Assembly, Charles C. Lathrop received one hundred and fifty-five votes.

For Coroners, Henry F. Reeves received one hundred and sixty-three votes; Jabez Kingdom received one hundred and sixty-two votes; Alexander Cowperthwaite received one hundred and sixty-three votes.

We do certify, that the foregoing is a true, full and correct statement of the result of the election above mentioned, and that the same exhibits the whole number of the names on the poll book, and of the ballots rejected, the name of each person for whom any vote or votes were given for any office designated for him in such vote or votes, and the number of votes given for each person for the office or offices so designated for him.

In witness whereof, we have hereunto set our hands, respectively, this fourth day of November, in the year of our Lord one thousand eight hundred and sixty-three.

CHARLES H. PEART,  
RICHARD F. WILMERTON,  
CHARLES C. McELROY,

*Judges of Election.*

Attest:

CHARLES R. FENIMORE, *Clerk.*

State of New Jersey, Burlington county, ss.—I, Amos Gibbs, Clerk of the Court of Common Pleas, in and for said county of Burlington, do hereby certify, that the foregoing is a true copy of the return of the result of the election held in the township of Beverly, in said county, as filed in my office.

Witness my hand and seal of said court, at Mount Holly, this

[L. s.] 17th day of February, A. D. 1864.

AMOS GIBBS, *Clerk.*





## CONTESTANT'S REBUTTING TESTIMONY.

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STATE OF NEW JERSEY, }  
BURLINGTON COUNTY, } ss.

Between

CHARLES C. LATHROP,  
Contestant,

and

JARRETT STOKES,  
Respondent.

*In the matter of the contested  
election in the Second Assembly  
District, Burlington County.*

FRIDAY, FEBRUARY 19, 1864.

Mr. Lathrop, the contestant, proposes to offer certain additional testimony, by way of rebuttal, and also that Caspar Webber, James or Edward O'Neil, and Samuel Painter, who voted for Mr. Jarrett Stokes at the last election, were neither of them legal voters.

Mr. Stokes objects to the taking of any further testimony on the part of the contestant,

*First*—Because his testimony under the notices heretofore given has been closed, and the taking of further testimony not authorized by the act.

*Second*—Because the act requires that within thirty days after the election a notice shall be given by the contestant to the returned member, particularly setting forth the ground or grounds upon which such seat will be contested, and expressly prohibits the Master from taking any testimony which does not relate to some ground of contest specified in such notice; and that the illegality of the votes of Caspar Webber, James or Edward O'Neil and Samuel Painter, and that they or either of them voted for Mr. Stokes, are none of the grounds of contest specified in said notice, and not in rebuttal of any evidence on the part of Mr. Stokes.

*Third*—Because the act confers no power upon the Master to take rebutting testimony at all, although Mr. Stokes admits that more than ten days ago, but more than thirty days after the said election, Mr. Lathrop gave him notice that he intended to take rebutting testimony upon the closing of the testimony on the part of Mr. Stokes, which notice contained the names of the witnesses whom he intended to examine taking such rebutting testimony.

## DEPOSITIONS.

Daniel P. Naylor, a witness on the part of the contestant, being recalled, says : I recollect when the late William R. Allen and Hamilton McDowell were opposing candidates for the office of mayor in this city ; the time to which I refer was six years ago last spring ; I was an officer of that election ; I was judge ; there was a ballot taken there before the polls were opened, and I was elected judge ; I assisted at the counting of the votes at the close of the election ; as near as I can remember, it was near six o'clock in the morning of the day after the election that we finished the count ; we proceeded to count off as soon as the polls were closed on the night of the election, and continued until we got through, at the time I have mentioned ; Mr. Allen received a majority of the votes by that count ; I remember that after that first count the clerk and judges were pretty much exhausted, and the majority being so close, it was determined to have a recount ; so we adjourned then for two or three hours, I forget which, just time enough to get some breakfast ; we went two at a time ; the other two judges remained with the box in the election room at the City Hall ; the vote was not officially announced on account of its being so close, and we had determined to have a recount ; so far as I know, the ballot box was not taken out of the election room ; after having had breakfast, we proceeded to recount the ballots ; I think that the result on the second count was a majority of four in favor of Mr. Allen ; at the recount after the election in November last, in the council chamber, I sat at the middle desk, on the north side of the chamber ; I saw, that morning, the tally lists which had been kept by Mr. Batten, the clerk of the election, the night before ; at the time I noticed them they were by my side, at my right hand, on the desk ; Mr. Batten desired me to take charge of the tally lists and correct the mistakes, if any were found, and I may state that Mr. Lippincott, the judge, requested me to do the same ; those tally lists remained at my side, on the desk, until I left the Hall, having gotten through with the recount, as I thought ; neither Michael W. Keegan nor any one else took either of those tally lists from the desk while I sat there ; he could not have done so without my knowing it ; he did not make any figures on those tally lists, or either of them, while they were lying on the desk at my side ; I remember Keegan's coming into the chamber while I was there, and am pretty sure that he left before I did ; I am positive that I did not see him there when I left ; I did not hear Mr. Batten, at any time that morning, tell Mr. Keegan not to mark, figure or scribble on his tally lists.

Being cross-examined, says : At the time when Mr. Allen was elected mayor, to which I refer, over Mr. McDowell, Lewis Lippincott was clerk ; I do not remember who the other officers were ; I was trying to remember the other day ; I may have told by looking at the city records, but from personal recollection I cannot ; Lewis Lippincott now resides in Philadelphia ; I am quite sure that it was about six o'clock in the morning of the day after election when we got through the first



count; it was quite light in the Hall, and was sometime before the usual hour for breakfast; at the termination of the first count, as near as I can remember, Mr. Allen was elected by two majority, I think; I am positive that he was elected on the first count; I do not remember that that result was made known; very likely it was, and very likely it was not; we had only two counts; the result of the first count was not publicly stated officially; I do not remember that it was publicly stated at all; I am sure that we got through with the first count before the afternoon of the second day; we finished the second count sometime during the afternoon of the second day; that result was announced by the judge; that also was in favor of Mr. Allen; he gained two votes by the recount, if I remember arightly; I was present during the whole time of the recount, after the mayor's election; I presume that all the officers were present as a matter of course; we adjourned after the first count for breakfast, as we were pretty well worn out; I do not think that we adjourned for dinner; I am pretty sure that we did not; we did not make a second tally list, at least I do not remember it; I had nothing to do with it if we did; according to my remembrance there are three desks on the north side of the City Hall, and only three; the clerk's table is in the area; I think that the clerk's table was directly opposite the desk where I sat; my face was towards the clerk's table; the tally lists were on the same desk at which I sat; Mr. Batten asked me to take charge of these tally lists immediately before they commenced to recount; I did not correct any of the mistakes upon the tally lists; I refused to do so at the time that he asked me; I saw Keegan just before or after the commencement of the recount; I did not take particular notice of him; I do not recollect going over the Union tickets twice; Mr. McDowell and I sat together at the same desk; I have an indistinct recollection of Mr. McDowell, when a mistake was discovered, saying something to Mr. Batten about correcting it; Mr. Batten sat at a desk in the north east corner of the council chamber; I recollect seeing Mr. Batten make some correction on the tally list, he came to the desk where I sat and made the correction in some manner; he made it at the desk where I sat; I am quite sure of that; he did not remain there; he went back to the desk where he had been sitting; if there are only three desks on that side it was at the desk next to where I sat; I think that the space between the desks is about two feet apart; I presume that he sat about seven and a half feet from me.

DANIEL P. NAYLOR.

Sworn and subscribed before me, February 19th, 1864.

JOHN RODGERS, *M. C. C.*

Spencer L. Hudnut, a witness produced on the part of the contestant, being duly sworn, says: I reside in Burlington; I have acted as a judge of election in Burlington township; in November, 1862, there was no recount of the votes cast at that election on the next day by the judges.

Being cross-examined.—I think that the judge's name was Lippincott; I was temporarily elected a judge to take the place of Robert Pitman, who was sick; I have been living here about ten years; we met the next morning after the election; one reason why we met was, that in numbering the tickets as they were called off, I had made some errors, some of which were rectified that night, and the others were fixed up the next morning; we had to go over the tickets some distance back to do so; I assisted in doing this; Mr. Lippincott also assisted; we adjourned to correct mistakes and fix up the papers; I should presume that we went there to finish up what had been done, or to correct any mistakes; the question did not arise; we did not adjourn to correct any mistakes, so far as I understood, but to finish up the business on hand, to finish up the papers, &c.; I said that I made a mistake in my numbering; I did so several times during the evening.

*Question*—Did you not say that one of the reasons for your adjourning was to correct those mistakes?

*Answer*—I believe that I did, in the first instance; I did not intend to say that it was the only reason; had that been all we could have closed it up that evening, and I think that one of the judges said that it was customary to adjourn over until the next day to finish up the papers, and of course I acquiesced in it, as I knew nothing about it.

*Question*—Was it your understanding that if you discovered any other mistakes, that you would not correct them, but certify to a falsehood?

*Answer*—No, sir.

*Question*—Was it not, then, your understanding that you were to correct as well those mistakes which you knew of, as those which you might discover?

*Answer*—I do not think that there was any understanding about correcting any mistakes except those which I have named in connection with numbering the tickets; I had very little part to take in the business the next morning, except to sign the papers; perhaps I corrected the mistakes upon the numbering on the ballots; we ascertained about the correctness of the numbering on the ballots by going back over them; I think I went over the ballots to see where the improper numbering was; I believe that Mr. Batten was engaged in writing up some papers, and do not remember what the other officers were doing.

Examination in chief resumed.—We did not attempt to change the vote in any way from what it had been announced the night before.

Cross-examination resumed.—*Question*—Did you find any mistakes which required any alteration in the result which you had announced the night before?

*Answer*—No, I think not; I do not think that we looked for any; I do not think that the question arose at all.

*Question*—If you had found any such mistakes, would you not have made the alteration?

*Answer*—Had we looked for them and found them, I suppose that we would.

Examination in chief resumed—*Question*—Did you not consider your count of the ballots completed on the night of the election?

(Mr. Stokes objects, as leading.)

*Answer*—Yes, I think we did; all parties seemed to be satisfied, but they said that it was usual to adjourn, and we did.

Cross-examination resumed—*Question*—If you considered the count completed that night, why would you have altered it the next day, if you had discovered a mistake?

*Answer*—If there had been a call for a recount, I would have considered it nothing more than just that the mistakes should have been rectified; sometimes, when there is a close vote, and either party not being satisfied, it would be nothing more than right or proper to give them a recount, but as we were not called upon to do it, we did not; I think that Mr. Lowden went over these tickets with me, and not Mr. Lippincott; I think that there was a discrepancy between his numbering and mine.

S. L. HUDNUT.

Sworn and subscribed before me, February 19th, 1864.

JOHN RODGERS, *M. C. C.*

Adjourned until Monday, February 29th, 1864, at 10½ A. M., at Bel-din's hotel, in the city of Burlington.

MONDAY, FEBRUARY 29, 1864.

Parties present as before.

William H. Sherwood, a witness produced on the part of the contestant, being duly sworn, says: I do now, and I did on the third day of November last, reside in the city of Burlington; I know Benjamin F. Lippincott, the judge of the election in this township; I saw him when he came to the telegraph office for the ballot box, on the night of the election; he came in and asked if Mr. Deacon was in; Mr. William Bunting answered that he was not, and asked if he would like to see him; Lippincott said no, that he wanted the ballot box; he then went into the office and got the box, took it, and went out to the pavement, and I went right behind him to the door; when he got out upon the pavement he was joined by Mr. James R. Batten, directly in front of the passenger room door; they stood there talking a little while, but what was said I could not hear, they talked very low; they seemed to be earnestly engaged in conversation; Lippincott had the ballot box in his hand at the time; I suppose that they were there two minutes, as near as I can tell; there were several persons right around close by them; Lippincott and Batten went off in company; they went towards Main street, around the end of the platform; I went down directly after them; there were some seven or eight went after them before me; they went down the left hand, the westerly side of Main street; I followed down after them as far as the post office; at the street lamp there, I saw



two men ahead of the crowd; the man next to the curb-stone had a box in his hand, or something resembling a box; I believe that it was a box; I have no doubt of it; it had, in appearance, the size and shape of the ballot box; I then followed them down to Union street; saw them cross there; they crossed to the north side of Union, and kept right down towards the river; then I turned around and came back; they passed by the Burlington Bank; they went down Main street, on the opposite side of the street from Dr. Hollemback's office and residence; Union street is below Hollemback's office; I heard on the night of the election that Mr. Lathrop had a majority of four in the township of 'Willingboro' over Mr. Stokes; I heard it in the telegraph office; I do not know who brought it.

Being cross-examined, says: I live in Pearl street, at the upper part, near the creek; I am the freight agent of the Camden and Amboy Company; I was at the telegraph office mainly to hear the reports; Mr. Batten, at the time he joined Lippincott, was on the sidewalk, right in front of the passenger room door; I do not think that I would have followed them, but two or three who stood there said that some one ought to follow them; no one joined me in following them; I followed him out of the passenger room, because I was about ready to go home, and had come out of the telegraph office before that, for that purpose; I was on the steps of the passenger room when I heard it said that some one ought to follow them; William Bunting and Charles Horn made the remark; they came out of the door of the passenger room just as they started away, it may be a little before; I did not see any persons talking with Lippincott and Batten while they were standing there; Lippincott and Batten went off together, alone; they went up Broad street and around the platform in that direction; I suppose that they got to the northwest corner of Broad and Main streets before I started after them; the crowd started right after Lippincott and Batten; they were close up to them; they could not have been a great ways off; I cannot tell exactly how many were in this crowd, I suppose that there were eight or ten; I did not know any of them; if it had been light, I might have distinguished them; the night was too dark; the crowd appeared to be in a pretty good humor; I went around the platform in the same direction; when I got to the southwest corner of Main street, this crowd were below the railroad; I cannot say whether they had yet got to Burling's corner, (the northwest corner), or not; at this time I could not see the two men whom I took for Lippincott and Batten; I kept about the same distance from them; I was distant from the crowd about the distance of the railroad from the corner of Main and Broad streets; it was at the lamp near the post office that I first recognized the persons whom I supposed to be Lippincott and Batten; at that time I was a few steps

this side of the post office; the crowd was still between them and me; the men whom I took to be Lippincott and Batten were then not over thirty or forty feet from me; the crowd passed by the lamp post also; I did not recognize any of them, because my attention was directed to the persons ahead; I have lived in Burlington nearly eleven years; I am pretty well acquainted with the people; it is not often that a crowd of eight or ten will get together and I not know them, if it is in plain daylight, or I was with them; I went no further than Union street; I came back to the corner from there; I did not cross over Union street; when I got to the southwardly side of Union street, the crowd was across the street by the Bank; at that time the two men whom I took for Lippincott and Batten were about eight or ten feet ahead of the crowd; this thing which I took to be a box was carried in the right hand down; I cannot say exactly what time it was when they started down; it may have been half-past ten or eleven o'clock, I did not examine my watch; I did not see anything more of the parties that night; I went back to look for my brother-in-law from the country, who was staying at my house that night, and who had asked me not to go home without him; I do not know where my brother-in-law was when I went out of the telegraph office; I recognized Lippincott and Batten by this box, and I knew that they had started ahead of the crowd; seeing in the hand of one of them that which I supposed to be a box, and knowing that they had started ahead of this crowd, was the only way in which I recognized them; I know Lippincott and Batten when I see them; I am well acquainted with their appearance; the man with the box walked on the side of the pavement, next to the curb-stone; the crowd walked together promiscuously; I did not see the faces of any of the men in the crowd; I did not follow them any further, because I was satisfied that I could not see anything except when I came to a light.

Examination in chief resumed.—*Question*—From the reasons which you have stated, had you any doubt at that time, or have you any now, that the two persons whom you have named were Benjamin F. Lippincott and James R. Batten?

(Mr. Stokes objects to the question.)

*Answer*—I have no reason to doubt that they were the men, and never did in my own mind.

The gas was lighted at the lamp post near the post office; when I started from the depot after these persons, I started at a pretty rapid rate, for the purpose of overtaking them; I ran a little way.

W. H. SHERWOOD.

Sworn and subscribed before me, February 29th, 1864.

JOHN RODGERS, *M. C. C.*

Henry Lowden, a witness produced on the part of the contestant,

being duly sworn, says: I reside in the township of Burlington; I have lived here all my life; in 1862, when I was assessor, I acted as a judge of the election in this township; in 1849, when I was collector, I acted as a judge of the election; these are the only instances in which I have acted as one of the judges of the election; upon both of these occasions, after the polls were closed, we proceeded immediately, that evening, to count off the ballots which had been cast; upon these occasions the judges of the election did not adjourn over until the next morning for the purpose of recounting the ballots; no such thing was mentioned; the ballots were not counted over, on the morning after the election, either in 1849 or in 1862; I have never heard of such a thing as the officers of the election, after having counted the votes on the night of the election, at a State or county election, adjourning over until the next morning for a recount of the ballots; there have been such instances in our municipal elections; no such custom has prevailed in the township of Burlington.

Being cross-examined—*Question*—Has there been a custom of recounting at the municipal elections?

*Answer*—No, sir.

*Question*—Have you not known recounts to take place at municipal elections?

*Answer*—I have, in one instance.

*Question*—No more than one?

*Answer*—I do not remember more than one, between Mr. McDowell and Mr. Allen, when they ran for mayor; I do not recollect what the result was on that occasion, as announced on the night of the election; I have never known a case where the officers did not count the votes on the night of the election; I have acted as judge at two elections only, these were fall elections; on these occasions we adjourned over to make out our statements and certify to them; for no other purpose, that I recollect; I am certain that on both of these occasions we did nothing else, that I remember; I remember a confusion in the numbering of the tickets in 1862; I think that this was all adjusted that night.

*Question*—If, on the occasions which you have stated, when you adjourned over to make up your statements, you had discovered an error in your count, would you have corrected that error in your statements, or certified to a falsehood?

*Answer*—I certainly would not have certified to a falsehood, knowing it to be a falsehood?

*Question*—Then you would have corrected the error, would you not?

*Answer*—Certainly.

Examination in chief resumed.—*Question*—Do you not consider that when the votes are counted on the night of the election, after the polls have been closed, that that is the official count contemplated by law?



(Mr. Stokes objects to the question.)

*Answer*—I have always considered it so.

*Question*—Do you know of any authority for the officers, after the vote has been counted, and the result announced, to recount the votes?

(Mr. Stokes objects to the question.)

*Answer*—I do not.

Cross-examination resumed.—*Question*—Do you not consider the written statement and certificate which the law requires the election officers to make and sign, their official statement of the true result of that election?

*Answer*—I do; what the law requires them to do.

*Question*—Do you know of any law which prevents the election officers from counting the ballots until they are satisfied of the truth of the result?

*Answer*—My understanding of the law is that they have no right to.

Examination in chief resumed.—*Question*—Do you not mean by that, that when the ballots have been counted by the officers of the election, and the result publicly announced, that they have completed their duties so far as counting the ballots are concerned?

(Mr. Stokes objects to the question.)

*Answer*—That is my meaning of it.

HENRY LOWDEN.

Sworn and subscribed before me February 29, 1864.

JOHN RODGERS, *M. C. C.*

Jonathan M. Roberts, a witness on the part of the contestant, recalled: I was present at the City Hall when the ballots were counted on the night of the election; after the ballots had all been counted and tallied, and the tallies footed up by Mr. Batten, the clerk, on his tally lists, I saw tally list Exhibit C on the part of the contestant, the Republican tally list, heretofore spoken of; I also saw Exhibit D on the part of the contestant, being the Democratic tally list; there were on that tally list (Exhibit D), nine tallies as splits tallied opposite the name of Mr. Stokes, and it was so carried out; I do not see how the noise and confusion in the City Hall on the night of the election could have prevented the officers from making a correct count; there was a good deal of noise, but apart from being annoying, it did not interrupt the counting; the officers noticed it several times, and commanded order; with that exception there was no notice taken of it; I do not know how the count could have been conducted more deliberately, conducting it as irregularly as they did, that is, that they did not conduct it according to the requirements of the law.

*Question*—Did you say to Mr. Benjamin F. Lippincott, that you did not believe that either Mr. McDowell, Larzaleer or himself

had anything to do with the charge made or brought against them, in connection with this alleged fraud upon the ballot box?

(Mr. Stokes objects to the question.)

*Answer*—I never did say anything to Mr. Lippincott which would bear any such interpretation; so far from having said anything like that to him, I told him expressly that I had no alternative but to make a complaint against them, that I regretted it because I thought that he was the victim of more shrewd and designing men than himself.

*Question*—State if you please what occurred between Mr. McDowell and yourself, if anything, in relation to these election difficulties?

(Mr. Stokes objects to the question.)

*Answer*—I told Mr. McDowell that from the fact that the calculation in pencil mark on the Republican tally list was made there without any of the officers having seen it done; I was convinced that the ballot box had been opened and the tickets altered when they were not present; and that the party who had made that calculation was the person who had altered the tickets, that the officers, and they alone ought to be able to explain how they got there, that unless they did so I would be compelled to consider that they had a knowledge that the box had been opened that night.

*Question*—Did you have a conversation with Mr. Jarret Stokes at Mount Holly, during the last December court?

*Answer*—I had.

*Question*—Did he say anything, and if so what, about a conversation had between himself and Benjamin F. Lippincott, on the night of the election, about a recount?

(Mr. Stokes objects to the question.)

*Answer*—He told me that when he went into Kinsey's hotel, on the night of the election, a person came to him, and asked him whether he thought that they had better have a recount the next morning, to which he replied, that a recount could make it no worse for him according to the vote as returned, or as we had the returns he was defeated, that he said that it was not for him to judge of the propriety of a recount, it was for the officers to do that, that it was then suggested that a recount had been had in McDowell's election for mayor, and I think he said in other instances, that he said in reply to that suggestion, that there could be no more impropriety in having a recount in this case than in the other instances; he told me in this room while I was being examined, that it was Benjamin F. Lippincott who came to him and had this conversation with him.

On the night of the election, I think that the lights in the City Hall were amply sufficient for the officers to see distinctly; I could have seen distinctly.

Being cross-examined says: I did not have in my hands the tally list (Exhibit D *ex parte* contestant) on the night of the election after the tallies had been counted and carried out; the district attorney, Mr. Hutchinson, told me that there were two indictments found at the last December term in this county; the one against Benjamin F. Lippincott, Hamilton McDowell and William Larzaleer, for making a false election return, and the other against the same three persons, and James Russell Batten and Michael W. Keegan, for altering election tickets; I made a complaint against the election officers for making a false election return, and against Michael W. Keegan for altering the tickets; so far I stand as a prosecutor; I made no complaint against any one except Mr. Keegan for altering tickets, and I made no complaint whatever against Mr. Batten; by the election officers I mean Benjamin F. Lippincott, Hamilton McDowell and William Larzaleer; I am the prosecutor upon the indictment against the judges for making a false election return, and against Keegan for altering tickets, so far as an individual can become a public prosecutor.

Examination in chief resumed: When Mr. Burling went over to compare his tally with the clerk's, I accompanied him to the other end of the table, and saw that the tally list of Mr. Burling coincided with the tally lists of the clerk which were lying immediately before us at the time; I recollect distinctly that the vote for Assembly on the clerk's list coincided exactly with that of Mr. Burling; there were some discrepancies between the tally kept by Mr. Burling, and that of the clerk on the other candidates than those for Assembly, which were made to correspond at that time; the paper upon which Mr. Burling kept his tally list is the paper which he produced here on his examination, and which has been marked as an exhibit in this case.

J. M. ROBERTS.

Affirmed and subscribed before me, February 29, 1864.

JOHN RODGERS, *M. C. C.*

James Watts, a witness on the part of the contestant, being recalled, says: I have for several years in succession, as clerk, acted as an election officer, in Burlington, and two or three times as associate judge; I have never known on these occasions an adjournment over until the next morning, for the purpose of recounting the ballots; there has been no custom in the township of Burlington, under or by virtue of which the judges of the election adjourned over until the next morning for the purpose of recounting the ballots; I have never known an instance at a State or county election, where a recount has been had on the following day, until last fall; I have taken an active part in politics and been present at the elections for twenty-five years past, except two,



one spring and one fall election; I know George S. Poole; for the last three years I have considered his residence to be a little above where I live in York street, in the city and township of Burlington; that has been his residence for all that time; I know of his having enlisted as a nine months volunteer; Poole lived in Burlington at that time, in the same house; he enlisted in the 23d New Jersey regiment; that was the Burlington county regiment; they enlisted in August 1862; upon his discharge he returned to Burlington, and has been living here since that time; he is living here now, or was a few days ago.

Being cross-examined.—It is reported that Poole has been married; I have never seen his wife; I do not know how many children he has; I have understood that he has some children; I have understood, and I got my information during this examination that his wife is living in Philadelphia; I suppose that he spends all his time in Burlington; I do not know anything to the contrary; I know that that he boards and works in Burlington; he does not keep house here, nor has he ever kept house here; I do not recollect of having acted as associate judge of election but twice; I was for several years in succession the clerk of the election.

*Question*—On the occasion of these elections did you not adjourn until the next day?

*Answer*—If it is an adjournment, we adjourned over until the next day to make out our returns; that has always been the custom; I do not recollect any instance in which the returns and certificate have been made out on the night of the election.

*Question*—On the occasions of your acting as judge, if you had discovered an error in the count of the preceding night, would you not have corrected that in your statement and certificate of result?

*Answer*—I will answer, that if I had discovered a mistake, I would have corrected it, but the custom that has always prevailed of making out the certificate of the result of the election, I cannot see how an error could have been discovered.

Examination in chief resumed.—An error in counting the ballots could only have been discovered by opening the ballot box again; the certificate has always been made out the next morning in accordance with the count of the night previous.

JAMES WATTS.

Sworn and subscribed before me, February 29, 1864.

JOHN RODGERS, *M. C. C.*

Stephen Parsons, a witness produced on the part of the contestant, being duly sworn, says: I reside at Delanco, in this county; I have lived there about eight years; I know Charles C. Lathrop

the contestant in this case; he resides at Delanco, on a property which he purchased of Mrs. Jane Caruthers; this is a house and lot of land; he purchased the property, I think, about the middle of September, 1861.

*Question*—At the time of purchasing the real estate of Mrs. Caruthers, or about that time, did he purchase any of the personal property of her?

(Mr. Stokes objects to the question.)

*Answer*—A short time after, I think, but a few days, he purchased of her articles necessary to house-keeping, carpets, oilcloths, straw matting, chairs, tables, clocks, cooking and other stoves, entry lamp, some cooking utensils, quite a library of books, and numerous other articles of like character; these articles were purchased a few days after the purchase of the real estate, and I think before the papers were signed; they were not connected with the bargain for the real estate.

*Question*—When the bargain was consummated, did or did not Mrs. Caruthers give up the possession of this property to Mr. Lathrop?

(Mr. Stokes objects to the question.)

*Answer*—She did, as soon as she could dispose of her other personal property, which was in a few days; Mr. Lathrop bought a good deal of this property at public sale; Mr. Lathrop took possession of the property, real as well as personal, immediately, as soon as she gave it up.

*Question*—Do you know anything of Mr. Lathrop having paid a tax in Beverly township in 1861?

(Mr. Stokes objects to the question.)

*Answer*—I know that he did.

*Question*—Did or did not Mr. Lathrop purchase that property, with the avowed intention and determination of making it his residence from that time forth?

(Mr. Stokes objects to the question.)

*Answer*—He openly and freely avowed at the time, that it was his intention to come there and live, and stated to me, that he would come immediately, if he could dispose of his property, the house in which he was living, in the city; before he could do that the weather became so cold, I advised him not to move up until spring on account of his family; he disposed of his property and took board with his family so as to move up as soon as it was safe; he rented his property in the city in the fall of 1861, for a time and then sold it; before the weather got cold in 1861 he was in Delanco very frequently, arranging for his family to come up.

(Mr. Stokes objects to the whole of this testimony.)

Being cross-examined, says: I have no recollection of having heard Mr. Lathrop say for whom he voted in the city of Philadelphia, in the fall of 1861, or in the spring of 1862.

*Question*—Did you see any hand-bills on the houses or corners of the streets, in which Mr. Lathrop avowed his intention of moving to Delanco in the spring of 1862?

*Answer*—I did not; nor have I any knowledge of any such hand-bills.

*Question*—Seriously now, Mr. Parsons, at what time in the spring of 1862 did Mr. Lathrop move to Delanco?

*Answer*—I have nothing by which I can fix the date; it was very early in the spring; it may have been in the first week in April, but I cannot say; the heaviest snow storm in that year was after he came.

Mrs. Caruthers made a public sale of her personal property then; I was at that sale a part of the time; a portion of the articles which I have enumerated as purchased by Mr. Lathrop, were purchased at that public sale; I cannot draw the line of distinction between the articles purchased privately and those purchased publicly.

*Question*—Can you state any articles which Mr. Lathrop purchased of Mrs. Caruthers, at private sale?

*Answer*—They were never pointed out to me, which at private sale, or which at public sale.

*Question*—Repeated.

*Answer*—It is so long ago that my recollection does not serve me.

*Question*—How do you know that he purchased any articles at private sale?

*Answer*—I know it from the party from whom he purchased them, Mrs. Jane Caruthers, and himself; that is the only way.

*Question*—How do you know that he purchased any at public sale?

*Answer*—They were bid for by other parties, and left in the house and paid for by him.

*Question*—Who bid for the goods which were paid for by him?

*Answer*—I am not able to say; the crier announced the bids and not who made them.

*Question*—How do you know that he paid for them?

*Answer*—By the statement of Mrs. Jane Caruthers to me, that she was paid for them in full.

*Question*—What do you mean by "delivering of possession?"

*Answer*—She left the house and all in it and moved South; I know more of her delivering possession to him than that; she gave the key to him, and he gave it to me to take care of the property for him during his absence, or while he was in the city; I knew that she gave him the key from the fact of his having it; only from that; she acknowledged to me that she had sold him the property; this was on the day that she moved away; I went down to the station with her when she left the place; I had charge



of the property during his absence, while he was in the city, until he came up in the spring; when he came up in the spring he brought with him household goods and furniture; I think he brought up with him the usual and ordinary articles for keeping house; although I did not see them; I was not at home when they came up; Mrs. Caruthers said that it would cost her about three hundred dollars to get to Savannah, and he agreed that if the sale of her personal property did not amount to that, that he would make up the balance; I do not know how much he had to make up; I know that there was a very considerable part of the personal property purchased in the neighborhood; I purchased sixty dollars worth myself.

*Question*—Do you not know that the deed of conveyance was not made to Mr. Lathrop?

(Mr. Lathrop objects, because the deed itself is the best evidence.)

*Answer*—I negotiated for the property in his name, not knowing at the time that it was not for him; I have learned since that it was not; at the time of the negotiation for the property, she asked me about the taxes; I stated to her that it was customary for the purchaser to pay the tax from the time of the purchase; she consented to the arrangement; the tax bills were not then made out, and they took the tax bill of the year preceding as the basis of their calculation, and it was arranged that he should pay the tax when it should become due; the collector delivered the tax bill to me; I gave it to Mr. Lathrop; he offered me his check to pay the bill; I declined taking it some two months before it was payable, as I did not wish to hold it in my possession so long; he afterwards gave the check to the collector himself; this tax was against the property, and not against the person; the payment of this tax was a part of the arrangement made between him and her at the time he purchased the property.

STEPHEN PARSONS.

Sworn and subscribed before me, February 29th, 1864.

JOHN RODGERS, *M. C. C.*

George S. Poole, a witness produced on the part of the contestant, being duly sworn, says: I live here in Burlington, in York street; I have lived here over three years; I lived here at the time of the election last fall; it was my residence then; I have had no residence except Burlington for the last three years.

It is admitted that the witness was assessed in this township last year, and it is also admitted that he was returned as a delinquent tax payer.

Being cross-examined—I am married; I have four children; I have lived in Philadelphia; I lived in Philadelphia when Lincoln

was elected; I voted for him there; Curtin was elected that same year; I went the whole ticket; I have not voted in Philadelphia since I voted for Lincoln; my wife and children live at 1211 Parrish street, in Philadelphia; they have lived there some time; they lived in Coates street when I voted for Lincoln; I am a ladies' shoemaker; I work at my trade principally here in Burlington, as a journeyman; I have been down at my wife's, and slept and eat there, and come back again; I have stayed there a few days and come up again; I have not stayed there two or three months at a time when I have been out of work; I guess the longest that I have stayed there is two weeks; I don't get out of work; I have not been out of work since I came home from the war; I enlisted in the nine months men; we returned in May or June; I believe that I was not out of work when I enlisted.

*Question*—Who is boss about the house when you are down at 1211 Parrish street?

*Answer*—I suppose that the lady is the boss, as near as I can come at it; I do not pay any portion of the rent; I do not contribute at all to the support of my wife and children.

Examination in chief resumed—My wife and I separated by mutual consent, about three years ago; I enlisted in this city.

Cross-examination resumed—I was in the army at the time of the election in 1862; I have not voted at all except here, last fall, since I voted for Lincoln in the fall of 1860.

GEORGE S. <sup>his</sup> POOLE.  
mark.

Sworn and subscribed before me, February 29th, 1864.

JOHN RODGERS, *M. C. C.*

Josephus Sooy, Jr., a witness produced on the part of the contestant, being duly sworn, says: I reside in Westhampton, in this county; I was a member of the Grand Jury at the December term of the court in this county; James Russell Batten was called as a witness and examined as such.

*Question*—Was his attention called to the figures in pencil mark on a tally list of the votes kept by him as clerk of the election, in November last, in Burlington township?

(Mr. Stokes objects, because it is well established law in New Jersey, that you cannot prove by a Grand Juror what took place or what was testified to by any witness in the Grand Jury room, and because the tally list is not here to be exhibited.)

*Answer*—It was; this was on the first occasion of his being in the Grand Jury room; he was asked to explain how those figures came on the tally list; the first time that he was in, he said that he did not know anything about them; that he had never seen them before, and did not know who put them there; I asked him

the question myself, if he knew anything about those figures; he said that he did not; that he had never seen them before, and did not know how they came there; the second time when he was in before us, the question was asked him again about those figures; he said the same thing, that he did not know anything about them, and Mr. Hulme questioned him very close about the figures, and finally he said that he knew how they came there; he said that a man by the name of Keegan, I think, figured on there.

(The whole of this testimony, as to what transpired before the Grand Jury, objected to.)

I know Mr. Jarrett Stokes; I had a conversation with Mr. Stokes, about a week after the election, about his being in Burlington on the night of the election; I told him that I thought that they had robbed the ballot box; he said not, and I said that according to report that they certainly had; I asked him why they went and got the ballot box, after leaving it in care of J. P. Deacon at the telegraph office; he said they only left it there while they went and got something to eat; I told him that I understood that they left it there with him to be taken charge of until morning; I asked him then how he knew that the ballot box was not opened that night; he said he was in Burlington, I understood him to say out by the platform, when they came out with the ballot box; he said that he walked with Lippincott, the judge of the election, from Beldin's hotel down to Kinsey's hotel, and that it was not opened while he was there.

(Mr. Stokes objects to all the testimony as to conversations with him, as not in rebuttal of any testimony on his part.

Being cross-examined, says: I think I have told what Mr. Batten said in the Grand Jury room before I came here to-day; I think that I told Mr. Stratton; I think that I named it to Mr. Jonathan M. Roberts; I do not recollect of naming it to any one else; I may have done so, but I do not recollect; I took the ordinary oath of a Grand Juror, and after having taken the oath to keep secret the counsel of the Grand Jury, I told it; I did not know that it was necessary to keep such things secret after everybody knew them; I think that Mr. Roberts asked me about it in Burlington; I think that I mentioned it to Mr. Stratton in Mount Holly; this was a few days ago; I stated it to Mr. Roberts, I think, on Thursday of last week; I do not recollect of having spoken of this matter previously to my speaking of it before I spoke to Mr. Roberts; the conversation with Mr. Jarrett Stokes took place at his house; Mr. Joseph Deacon, who lives out on the Mount Holly road, was present; I think that Sheriff Gaskill, of Mount Holly, was also present; these are all; Mr. Deacon and myself had a cargo of rails landed on his wharf, and we went to see how long they could remain there; Gaskill went with us to help count the



rails; none of Mr. Stokes' family were present; this was, I think, the next week after the election in November.

JOSEPHUS SOOY, JR.

Sworn and subscribed before me, February 29th, 1864.

JOHN RODGERS, M. C. C.

The contestant announced that his rebutting testimony was closed.

I then appointed Monday, the seventh day of March, at ten and a half o'clock, at the same place, for the taking of testimony by way of rejoinder on the part of the respondent.

JOHN RODGERS, M. C. C.

## RESPONDENT'S REBUTTING TESTIMONY.

STATE OF NEW JERSEY, }  
BURLINGTON COUNTY, } ss.

Between

CHARLES C. LATHROP,  
Contestant,

and

JARRETT STOKES,  
Respondent.

*In the matter of the contested  
election in the Second Assem-  
bly District, in the County  
of Burlington.*

MONDAY, MARCH 7, 1864.

Mr. Lathrop objects to and protests against the taking of further testimony, or testimony by way of rejoinder, on the part of Mr. Stokes, for the following reasons:

*First*—Because the statute does not authorize it.

*Second*—Because no notice has been given.

*Third*—Because no list of witnesses has been furnished, except that which has just now been handed to him, as follows:

*To Charles C. Lathrop, Esq.:*

The names of the witnesses on the part of Mr. Stokes, in contradiction of the rebutting testimony on the part of Charles C. Lathrop, are as follows: Jarrett Stokes, Benjamin F. Lippincott, Hamilton McDowell, James R. Batten, Abraham Gaskill, and Joseph Deacon.

Yours, &c.,

A. BROWNING, *Attorney*

March 7th, 1864.

### DEPOSITIONS.

James R. Batten, a witness produced on the part of the respondent, being recalled, says: Mr. Naylor sat at the second desk, on the west side of the council chamber counting from the south; at the time of the recount, on the morning of the fourth day of November last, Hamilton McDowell was at the desk with him; neither of my tally lists were on that table; they were on the clerk's table, in the middle of the room, and there only, to the best of my knowledge and belief; I did not ask Mr. Naylor to

take charge of my tally lists, or to make any alterations on them, or either of them; according to my recollection, Mr. Naylor left the Council Chamber between the first and second counts, or between the second and third; I am not clear as to the precise time, but it was at all events before the whole count was completed; I joined Mr. Lippincott, the judge of the election, he carrying the ballot box, on the night of the election, near the railroad, on Main street, a little to the east of the plank crossing which runs from the south side of Broad street to the north side, on the west side of Main street, about thirty or thirty-five yards from the door of the passenger room, as near as I can tell; I was standing there, and he came up to me; I did not see him until he came up to me, that I recollect; I did not stand and talk with him for any length of time in front of the door of the passenger room, or see him there at all; upon his coming up to me, I asked him, I believe, if he was going home, to which he replied that he was; we then proceeded immediately to Dr. Hollemback's office; we did not have any conversation before we started to go down the street, nor did we stop and talk with any one on the way down there; there was not any crowd of persons with us or near us; when Lippincott, with the ballot box, joined me, we crossed Broad street diagonally to the northeast corner of Broad and Main streets, and proceeded to Dr. Hollemback's office on the east side of Main street; I am under the impression that I walked on the inner side of Lippincott, that is, on the side next the houses; I think that Lippincott carried the box on the side from me; I did not go further with Lippincott than Dr. Hollemback's office; I did not cross Union street with him at all; I did not on that night, at any time, walk with Lippincott on the west side of Main street, from the railroad down to Union street; I was twice before the Grand Jury; the first time that I was called before the Grand Jury, it was for the purpose of handing to them the keys of the ballot box; I was not examined on that occasion; no questions whatever were asked me in relation to the tally lists on that occasion; the ballot box was not opened at that time; Mr. Burling did not compare his tally list with mine on the night of the election; nothing of the kind occurred.

J. R. BATTEN.

Sworn and subscribed before me, March 7th, 1864.

JOHN RODGERS, *M. C. C.*

Hamilton McDowell, a witness produced on the part of the respondent, being recalled, says: Mr. Naylor and I sat at the center table, on the west side of the council chamber, at the time of the recount on the morning of the fourth of November last; neither of Mr. Batten's tally lists were on that table; Mr. Naylor and I



occupied the double desk, he at one and I at the other, he on my right examining the tickets as I passed them to him, with the tickets and ourselves occupying the whole of the desks, leaving no room for the tally lists, and when the mistakes were discovered I called to Batten to alter his tally lists; I do not know where the tally lists were then; I merely called to Batten to alter them; I did not hear either Mr. Lippincott or Mr. Batten ask Mr. Naylor to take charge of the tally lists, or to alter them; Mr. Roberts told me that he did not believe that either I or Lippincott was guilty of the charge of altering the tickets or stuffing the ballot box; I do not remember the precise language used; he said that he had no other object than to satisfy himself in asking the question; Mr. William S. Kinsey came in, and he repeated the same to him; Mr. Kinsey is now sick.

H. McDOWELL.

Sworn and subscribed before me, March 4th, 1864.

JOHN RODGERS, *M. C. C.*

Jarrett Stokes, a witness produced on the part of the respondent, being recalled, says: I know Josephus Sooy, Jr., of this county; I recollect that he, Joseph Deacon and Abraham Gaskill were at my house shortly after the election, in relation to a load of rails which they had at my wharf; I did not on that occasion, or at any other time, tell Mr. Sooy that I walked with Judge Lippincott, he carrying the ballot box, on the night of the election, from Beldin's hotel down to Kinsey's, or anything to that effect or like it; I did not on the night of the election, or at any other time, walk with Lippincott or any one else, carrying the ballot box, from Beldin's hotel or any other place, to Kinsey's hotel or any other place; I did not see the ballot box until I saw it here; I did not tell Jonathan M. Roberts, at the time of taking the testimony on the part of Mr. Lathrop, that it was Benjamin F. Lippincott who came up to me at Kinsey's hotel on the night of the election and consulted me in reference to having a recount; I may have said that it might have been Benjamin F. Lippincott who was talking to me about it; I was not consulted particularly by any one, nor have I ever told any one that I was consulted particularly; I merely said that there was a talk about a recount.

Being cross-examined, says: I have not at any time had any conversation with Mr. Lathrop in which Mr. Lathrop said that he only claimed nine majority in the township of Beverly, nor have I at any time heard him say that at the close of the polls in that township, and after the count of the votes, that he claimed only nine majority in that township; it was a report which I heard on the night of the election that Mr. Lathrop had kept a tally, and after they were done counting off, and when one of the judges

announced that the majority was eleven, Mr. Lathrop declared that it was a mistake, that the majority for him was only nine; that was the story which I heard; I do not remember who reported it; I heard it at Kelly's hotel; it was a common report here, (Burlington.)

JARRETT STOKES.

Affirmed and subscribed before me, March 4th, 1864.

JOHN RODGERS, *M. C. C.*

Benjamin F. Lippincott, a witness produced on the part of the respondent, being recalled, says: On the night of the election, when I left Beldin's hotel with the ballot box, Mr. Batten joined me on the railroad, on the plank crossing from Beldin's corner to Burling's corner; I did not see him or talk with him that night on the pavement, opposite the door of the passenger room; when he joined me, we did not stop and talk, but went directly across to the northeast corner of Broad and Main streets; we went to Dr. Hollemback's office, on the east side of Main street; Batten went with me as far as Hollemback's office, and no further; in passing down to the doctor's office, Batten walked on the inside of me; I carried the box in my left hand, on the side towards the curbstone, next to the street; I did not, at any time on that night, pass down on the west side of Main street, from Beldin's hotel to Union street; I was not on the west side of Main street that night, except in coming from the City Hall to Beldin's hotel; in passing down to Hollemback's office on the east side of Main street, there was not a crowd of persons behind us or near us; I did not see any one in the street at that time; I did not, on the morning of the recount at the City Hall, request Mr. Daniel P. Naylor to take charge of Mr. Battin's tally lists; I did not request him to make any alterations upon them; I do not recollect seeing them at any time on the table where Naylor was; I think that Mr. Batten laid them upon the clerk's desk; I do not recollect the time when Mr. Naylor left the council chamber; Mr. Roberts told me that he did not believe that I was guilty, or Mr. McDowell, or Mr. Larzaleer, or any of the election officers; Mr. Naylor left the council chamber before the recount was through.

Being cross-examined, says: Mr. Roberts said that he did not believe that I or any of the election officers were guilty of this report that the ballot box had been robbed; I mean, when I say that I left Beldin's hotel with the ballot box, that it was at the time I had got the ballot box from the telegraph office.

BENJ. F. LIPPINCOTT.

Sworn and subscribed before me, March 7, 1864.

JOHN RODGERS, *M. C. C.*

Joseph Deacon, a witness produced on the part of the respondent, being duly sworn, says: I know Josephus Sooy, Jr., and Abraham Gaskill; I was at the house of Mr. Jarrett Stokes with those gentlemen, a few days after the last election, for the purpose of looking after a load of rails which we had upon Mr. Stokes' wharf; I recollect that there was some few words said about the election at that time; Mr. Stokes, in that conversation, did not say that he walked with Lippincott, the judge of the election, who was carrying the ballot box from Beldin's hotel to Kinsey's hotel, on the night of the election; Mr. Stokes said that he was here in Burlington, and heard no tell of the ballot box, and did not see anything of it; that is about as much as I know about the ballot box; there was something more said about it; I did not hear him say a word about walking with judge Lippincott: I believe that I was in the house all the time.

Being cross-examined, says: This conversation with Mr. Stokes was in his own house, sometime about three o'clock in the afternoon of the day we were there; I do not know the date of the day; I do not know how the conversation arose, nor who commenced; I do not know that Mr. Stokes gave any explanation as to the whereabouts of the ballot box; Mr. Sooy may have said that he believed that the ballot box had been tampered with; I do not know that Mr. Stokes made any reply to such a remark; I cannot say that Mr. Stokes said that the box was left at the telegraph office while the officers went to get something to eat; I may have made such a remark as that, or that it was so reported: I have had a conversation with Mr. Stokes about this matter within a day or two; I met him in Mount Holly on Saturday last; Mr. Stokes asked me if I recollected what was said in relation to the ballot box; I went on to say that I recollected that I heard him say that he was in Burlington that night, but that he did not see anything of the ballot box; I said to Mr. Sooy that I did not recollect the whole of the conversation; then Mr. Sooy related it precisely as I have testified here; I did not know that he had a subpoena; I had this conversation with Mr. Sooy on Tuesday last; the conversation with Mr. Stokes was on Saturday last and here to-day, but not much at either time; Mr. Stokes did not in the conversation had with me, relate the conversation had at his house: what I have stated here to-day, is as I got it from Mr. Sooy; I belong to and vote with the Democratic party: I was subpoenaed here.

JOSEPH DEACON.

Sworn and subscribed before me March 4, 1864.

JOHN RODGERS, *M. C. C.*

Abraham Gaskill was called; Mr. William Larzaleer stated that



he had seen Mr. Gaskill to-day, and served a subpoena upon him ; but that he was too ill to leave home.

Mr. Stokes stated that his testimony was now closed.

Mr. Lathrop proposed to call Mr. Josephus Sooy, Jr., a witness produced upon the part of the contestant, who was present, for the purpose of stating the conversation had between him and Mr. Joseph Deacon, the last witness called by the respondent.

Mr. Stokes objects, upon the ground that testimony drawn out upon a cross-examination cannot be contradicted by the party who draws it out.

I do hereby certify that the taking of testimony on the part of the contestant and respondent, was here closed.

JOHN RODGERS, *M. C. C.*



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